

The complaint

Mr A is unhappy with the service provided by Wakam after avoiding his home insurance policy, and refusing to pay his contents claim.

Wakam is the underwriter of this policy. Part of this complaint concerns the actions of third parties instructed on the claim. Wakam has accepted that it is accountable for the actions of third parties instructed by it. In my decision, any reference to Wakam includes the actions of any third party instructed by Wakam during the course of Mr A's claim.

What happened

Mr A took out home insurance with Wakam in June 2022, which renewed in June 2023. Mr A attempted a claim under the contents section of his home insurance policy following a burglary in his home around August 2023. The facts of Mr A's claim are well known to both parties. So I haven't repeated them in detail here.

Following investigation Mr A was informed that Wakam wouldn't be paying his claim, and that the policy would be avoided, and the premium retained. Wakam responded to Mr A's complaint saying Mr A was asked a clear question about how much it would cost to replace the entire contents of his home, and he failed to answer this properly. Mr A answered '£20,000' however the total 'value-at-risk' at the time of loss was £75,258.76. Wakam offered Mr A £50 compensation in recognition of the parts of his claim that hadn't been handled in line with its usual service standards.

Mr A was unhappy with Wakam's response and brought his complaint to this Service. The Investigator said Wakam needed to do more to put things right. The Investigator said Wakam needed to reinstate Mr A's policy, remove any avoidance markers from its records, reconsider the claim under the remaining terms of the policy, and if the claim succeeds, Wakam could settle it proportionately. The Investigator also said Wakam should also pay Mr A £100 compensation for the inconvenience caused to him, in addition to the compensation of £50 already offered.

Wakam rejected the Investigator's findings. Wakam said *'this is exactly the situation that CIDRA was designed to respond to... [Mr A] misrepresented himself because he did not take care to answer that question... [Mr A] did not care that he was answering the question that was asked - he only cared that the coverage was adequate for the building and his high value items.'*

As the complaint couldn't be resolved, it has been passed to me for decision. I issued a provisional decision on Mr A's complaint. This is what I said about what I'd decided and why.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I'd like to reassure the parties that although I've only summarised the background to this complaint, so not everything that has happened or been argued is set out above, I've read and considered everything that's been provided. I've focused my comments on what I think is relevant. If I haven't commented on

any specific point, it's because I don't believe it has affected what I think is the right outcome.

Claim decision

When we investigate a complaint about an insurer's decision on a claim, our role is to consider whether the insurer handled the claim in a fair and reasonable manner. So I've considered if it's fair and reasonable for Wakam to have relied on CIDRA and the principles of misrepresentation to avoid the policy and to decline the claim. After considering the evidence, I'm not persuaded it is. I'll explain why.

The question Mr A was asked at the time of taking out his policy was:

How much would it cost to replace the entire contents of your home?

We've estimated a total contents value to be based on:

- Your property details
- The average amount insured by most UK households
- The items you've have already told us about

Insurance providers offer different levels of cover for valuable items in your home. This is typically 15-35% of the total contents cover you ask for. We estimate yours at [insert amount] You can change your total contents value if it doesn't look right.

I've seen that the webpage also included a hyperlink with further details of 'What's included in contents?' and reference to 'Show contents calculator'. Wakam says the claim should be determined under Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). As the information being requested was an estimate, CIDRA isn't relevant here. This is in line with this Service's long established approach on complaints where a consumer gives a statement of opinion. And that's what Mr A did here.

I've considered the complaint in line with our approach to complaints about underinsurance. My first consideration is whether Wakam asked a clear question. Wakam says 'hundreds of thousands' of consumers answer this question on the website when applying for home insurance, and specifically, contents cover. But I don't agree that's a reason in itself to say that the question was clear.

I accept that the initial question on the webpage 'How much would it cost to replace the entire contents of your home?' directly asks about the cost of insuring the entire contents in Mr A's home. But this question is followed by explanatory text which doesn't clearly explain the question being asked. The explanatory text goes on to say 'Insurance providers offer different levels of cover for valuable items in your home. This is typically 15-35% of the total contents cover you ask for. We estimate yours at £40,000 You can change your total contents value if it doesn't look right.' This text refers to 'valuable items', and goes on to say what percentage of total contents cover this usually represents. This is followed by 'We estimate yours at [insert amount].' But I think there's a lack of clarity here on whether the estimate provided by the website is referring to an estimate for 'valuable items' as explained in the explanatory text, or whether the estimate relates to 'total contents cover.'

Wakam says that the auto-populated estimate for Mr A would've been £40,000, and that he changed this to £20,000. Mr A doesn't dispute that he changed the figure to £20,000. I don't dispute that the initial question asking 'How much would it cost to replace the entire contents of your home?' does reasonably refer to 'entire contents of your home'. But the explanatory text leaves open the interpretation of what estimate Wakam is looking for- is it for 'valuable

items', or 'total contents cover.' The wording of the explanatory text is unclear, and I think it was reasonable for Mr A to interpret this as asking about the cover needed for 'valuable items'. Mr A's claim under his contents insurance for stolen items was for £11,692.81 for his valuable items. This supports what he has explained about taking out the policy for what he thought was valuable items, as inferred by the explanatory text.

As the explanatory text wasn't clear in what estimate Wakam needed Mr A to provide, Mr A gave a reasonable answer to the question. And so as I find he gave a reasonable answer, it's unfair for Wakam to avoid the policy and so not pay the claim.

I'll take into account any further information I receive in response to this provisional decision but based on what I've seen so far, I intend to require Wakam to treat the policy as having not been avoided and consider Mr A's claim in line with the policy terms. If the claim succeeds, Wakam should consider the claim based on the insured amount of £20,000 without applying any proportionate settlement deduction.

In line with our approach, Mr A should contact his new insurer to ask for it to refund the difference in premium without the avoidance showing against Mr A's record (providing the remaining terms of a new policy are like for like). If Mr A's new insurer doesn't offer to refund the difference in premium, Wakam should pay this difference to Mr A. This is in recognition of the additional premium amount charged to Mr A as a result of the avoidance marker showing on his record.

Communication and delays

Mr A's claim following a burglary in his home was reported to Wakam on 4 September 2023. In November and December 2023 Mr A received responses to his claim, informing him that it wouldn't be paid, and that his policy would be voided and the premium retained. Following Mr A's complaint, a further final response letter was issued in February 2024, recognising the delays and poor communication in respect of Mr A's claim.

I accept that claims on this nature, given the complexity and sums involved, can take time to verify and ensure compliance with the policy terms. But even with these factors in mind, Wakam didn't do enough to ensure clear and efficient progression of Mr A's claim at times. I think there were periods where the claim remained inactive and it took some prompting and phone calls from Mr A to chase for an update. Having considered these service failings I'm minded to direct Wakam to pay compensation in recognition of its poor service, and the impact on Mr A.

Having considered our award bands alongside what's happened on this claim, I'm minded to ask Wakam to pay Mr A £150 in compensation (in addition to the £50 offered when the final response letter was issued). I say this because this amount reflects the upset and inconvenience caused to Mr A because of the lack of timely updates, and poor communication on the claim.

Putting things right

I am minded to ask Wakam to:

1. Amend records and any central databases to make sure any record of the avoidance is removed;
2. Provide Mr A with a letter saying that the avoidance is removed for him to show to future insurers;

3. Consider Mr A's claim fairly in line with the terms and conditions of the policy based on a contents sum assured of £20,000;
4. Following confirmation from Mr A's new insurer that it hasn't agreed to a refund, refund Mr A the difference in premiums charged by Mr A's new insurer as a result of the voidance marker being on Mr A's record; and
5. Pay £200 distress and inconvenience (if any amount of this compensation has already been paid Wakam is instructed to pay the outstanding amount only).

**If Wakam considers that it is required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr A how much it has taken off. It should also give Mr A certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.*

My provisional decision

For the reasons given above, I am minded to ask Wakam to follow my directions for putting things right as detailed above.

The responses to my provisional decision

I invited both Mr A and Wakam to respond to my provisional decision. Mr A accepted my provisional decision. Wakam disagreed with the provisional decision. Wakam said (amongst other things) that the sales journey from Wakam's own website hadn't been given fair consideration, and that the claim should be determined under Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA).

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've carefully considered all the points raised by Wakam. I've focused my comments on what I think is relevant. If I haven't commented on any specific point it's because I don't believe it has affected what I think is the right outcome.

Wakam says it doesn't control the information a price comparison site provides. Wakam doesn't consider the provisional decision placed reasonable weight on the questions Wakam asked on its own website which Mr A was directed to.

Before reaching a provisional decision on Mr A's complaint, I had considered all of the evidence provided by Mr A and Wakam, including the full sales journey for Mr A's policy. The provisional decision focused primarily on the information provided on the price comparison website because this part of the sales journey was the main reason for upholding the complaint. I'd also seen that in response to the Investigator's findings, Wakam had also focused predominantly on the question from the price comparison website as the reason for rejecting the Investigator's findings.

I've considered the full sales journey again in order to determine whether Wakam has acted fairly and reasonably in assessing Mr A's claim. I've seen that after selecting options on the price comparison website, Mr A was directed to Wakam's own website to confirm his selections, and proceed with the purchase of his policy.

I've seen that the information on Wakam's site included a webpage with the heading 'Choose your contents level cover.' Mr A would've been able to increase or decrease the prepopulated amount showing on the screen, depending on the level of cover he needed. I

have seen the supporting text on this page explained *'Make sure you pick the full replacement value of everything you keep at home.'*

I accept that the information on Wakam's website prompted Mr A to ensure that the amount of cover selected reflected *'the full replacement value of everything you keep at home.'* However I'm not persuaded this evidence outweighs the lack of clarity in the wording from the comparison website relied on by Mr A at the start of the sales journey.

I accept that there was still a responsibility on Mr A to read the information provided by Wakam carefully, and to ensure that the policy met his demands and needs. I've carefully considered Wakam's role in the process, and the responsibility on Mr A to ensure that the policy offered him the right level of protection. But I'm not satisfied the information Mr A was provided with on the comparison website went far enough in clearly informing Mr A about what he would need to consider when providing a value in answer to the question *'How much would it cost to replace the entire contents of your home?'*

The provisional decision explained in detail why I didn't think the wording under this section was particularly clear. Wakam considers the information on its own website should be given greater consideration. But I think the initial part of the sales journey played a prominent role in impacting Mr A's decision to take out insurance. The explanatory text from the price comparison website wasn't clear in what estimate Wakam needed Mr A to provide. Mr A gave a reasonable answer to the question based on the way the question had been worded. Although I accept Wakam's comments about what Mr A was told when directed to its own website, these comments don't change my reasoning, or the outcome of Mr A's complaint.

Wakam says that the claim should be determined under Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). I'm satisfied that the provisional decision correctly determined the complaint to fall outside of CIDRA. This is on the basis that Mr A's response to Wakam's question was a statement of opinion. I have instead applied the principles of fair and reasonable, and our approach to complaints about underinsurance, to consider Mr A's complaint.

Even if I was to accept CIDRA is relevant for this case, the outcome for Mr A's complaint would likely be the same. That is on the basis that in order to determine whether Mr A made a qualifying misrepresentation, we would need to consider whether Mr A took reasonable care not to make a misrepresentation.

In this case, part of considering whether Mr A took reasonable care would be to determine whether the question he was asked was clear and specific. And for the reasons explained in my provisional decision, I'm not persuaded that it was. And because I don't think the question Mr A was asked was clear and specific, it follows that there isn't a qualifying misrepresentation, and Wakam wouldn't be entitled to take any action under CIDRA.

To confirm, CIDRA hasn't been used to inform my reasoning on this case. This information is being included in response to Wakam's strength in feelings about CIDRA being relevant for this complaint.

I've carefully considered Wakam's submissions. But I don't think these comments materially change the outcome of Mr A's complaint, or my direction for putting things right. So I'll be directing Wakam to put things right as set out in my provisional decision.

Putting things right

Wakam is directed to:

1. Amend records and any central databases to make sure any record of the avoidance is removed;
2. Provide Mr A with a letter saying that the avoidance is removed for him to show to future insurers;
3. Consider Mr A's claim fairly in line with the terms and conditions of the policy based on a contents sum assured of £20,000;
4. Following confirmation from Mr A's new insurer that it hasn't agreed to a refund, refund Mr A the difference in premiums charged by Mr A's new insurer as a result of the voidance marker being on Mr A's record; and
5. Pay £200 distress and inconvenience (if any amount of this compensation has already been paid Wakam is instructed to pay the outstanding amount only).

*If Wakam considers that it is required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr A how much it has taken off. It should also give Mr A certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons provided I uphold this complaint.

Wakam is directed to follow my directions for putting things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 14 January 2025.

Neeta Karelia
Ombudsman