



<u>Decision Ref:</u>	2020-0413
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Travel
<u>Conduct(s) complained of:</u>	Rejection of claim - theft or attempt theft Rejection of claim - definition of valuables
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The Complainants hold a travel insurance policy with the Provider. The Complainants travelled to a European Country in **January 2019** to organise their daughter's wedding. While abroad, the Complainants were the victims of two thefts in the same day. The Complainants made a claim under their policy. However, the Provider informed the Complainants that it would not be accepting certain aspects of their claim and it required additional information in respect of other aspects of the claim. The Complainants are dissatisfied with the Provider's decision regarding their claim.

The Complainants' Case

The Complainants explain that they flew to European Country in **January 2019** for 2 days. The purpose of the trip was to organise their daughter's wedding. The Complainants' flights and hotel were booked by their daughter and her fiancé. Unfortunately, the Complainants were the victims of theft twice in the one day and *lost everything* including money, bags and personal belongings. The thefts were reported to the local police and the Provider. The Complainants state that they *"... had to get emergency passports which cost money and more items that we needed. The insurance company has the whole breakdown of this information."*

They say that the Provider *"... is supposed to represent us as insurance providers and ... [t]hey have been playing a lot of tennis back and forward with literature and trying to make out this never happened and we were not there"*

The Provider's Case

The Provider explains that the travel insurance policy the subject of this complaint is an extension to the Complainants' health insurance policy. The Complainants' travel insurance policy covered the period of **1 January 2019 to 31 December 2019**.

The Provider was notified of a claim on **18 January 2019**. A completed claim form and documentation was received on **18 February 2019**. The Complainants' claim was for theft of a bag and its contents from the boot of a hire car, theft of a bag from the hotel lobby, and loss of a mobile phone. The Provider observes that the Complainants were unclear as to when, where or how the phone was lost or stolen. Additional information was requested by the Provider on **12 March 2019**. An explanation as to why the Provider could not cover the Complainants' mobile phone and money was also included. On **27 March 2019**, the Travel Claims Team received a letter from the Complainants expressing their dissatisfaction with the Provider's response.

In its Formal Response, the Provider cites the policy exclusions relating to personal possessions and valuables, and states that it cannot consider a claim for money or valuable items that were either in the car, left unattended or out of the Complainants' line of sight in the hotel lobby. The Provider advises that it may be able to consider a claim for the non-valuable items that were stolen from the car. However, the Provider has requested, and outlined, certain additional information from the Complainants. The Provider remarks that a lot of the items claimed for appear to have been purchased in the European Country the Complainants visited, and the Provider has asked for an explanation for this.

The Provider states that it needs to treat all customers fairly and has a duty to its underwriters to ensure that all claims are assessed correctly and in line with the policy terms and conditions. In view of this, the Provider is not in a position to waive the requirements for certain information or paperwork on an individual basis. From the Provider's perspective, if a customer cannot or will not provide requested information, a claim cannot be progressed.

The Complaint for Adjudication

The complaint is that the Provider wrongfully and/or unreasonably refused to admit the Complainants' claim under their travel insurance policy, for payment of benefit.

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainants were given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

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In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint. Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on **23 October 2020**, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

In the absence of additional submissions from the parties, within the period permitted, the final determination of this office is set out below.

The Policy

The Complainants' policy sets out the documentation required when making a claim:

"Making a claim

...

You will need to obtain some information about your claim while you are away. Below is a list of the documents we will need in order to deal with your claim:

For all claims

- ***Your original journey booking invoice(s) and travel documents showing the dates and time of travel.***
- ***Original receipts and accounts for all out-of-pocket expenses you have to pay.***
- ***Original bills or invoices you are asked to pay.***
- ***Details of any other insurance you may have that may cover the same loss, such as household.***
- ***As much evidence as possible to support your claim.***

...

If your passport is lost, stolen or destroyed

- ***A receipt from the Consulate confirming the cost of the replacement passport and a written report from the police, if your passport is stolen.***

Personal possessions and Personal money

- ***Report theft, damage or loss to the police within 24 hours of discovery and ask them for a written police report.***
- ...

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- *Original receipts, vouchers or other suitable evidence of purchase/ownership/value for lost, stolen or damaged personal possessions.*
- *Confirmation, such as foreign exchange receipts and withdrawal slips, from your bank or bureau de change for issuing foreign currency, or suitable evidence of Euros.*
- ...

In terms of the cover offered by the policy, I note the following sections:

“Loss of passport – Section 2

What are you covered for

We will pay for the following if **your** passport is lost, stolen or destroyed on **your** journey.

Costs for issuing a temporary passport

Up to **€165** in total for the cost of extra transport, accommodation and administration costs **you** have to pay to get a temporary passport to enable **you** to return to **your home** country.

Remaining value of original passport

The equivalent cost (based on the current replacement costs) of the period remaining on **your** passport that is lost stolen or destroyed.

...

Personal possessions – Section 4

What you are covered for

Up to **€1,650** in total for **your personal possessions** damaged, stolen, lost or destroyed on **your journey**.

The most **we** will pay for **valuables** is **€440** in total whether jointly owned or not. There is also a single article, **pair or set** limit of **€330**

...

What you are not covered for

...

A claim for more than one mobile phone per **person injured**.

Loss or theft of, or damage to, the following:

- ***items for which **you** are unable to provide a receipt or other proof of purchase;***
- ...
- ...
- *****personal possessions** unless they are on **your** person, locked in the accommodation **you** are using on **your journey** or they are out of sight in the locked boot or covered luggage area of a locked motor vehicle;***
- *****valuables** left in a motor vehicle;***

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- **valuables** carried in suitcases, trunks or similar containers unless they are on **your person** all the time;
- **valuables** unless they are on your person or locked in a safe or safety deposit box ... or locked in the accommodation **you** are using on **your journey**;
- ...
- **personal money** (See section 5);
- passport (See section 2)....

Personal money – Section 5

What you are covered for

Up to **€500** for loss or theft of **your personal money** (but no more than **€150** in cash in total, whether jointly owned or not) while on **your journey**.

What you are not covered for

An **excess** of **€75**.

Compensation unless **you** can provide receipts for the amount **you** had from the place where **you** got the currency.

Loss or theft of **personal money**, unless it is on **your person**, locked in a safe or safety deposit box ... or locked in the accommodation **you** are using on **your journey**. ...”

The following definitions are also contained in the policy:

“Personal money

Cash, cheques, postal and money orders, current postage stamps, travellers’ cheques, coupons or vouchers which have a monetary value

Personal possessions

Each of **your** suitcases, trunks and similar containers (including their contents) and articles worn or carried by **you** (including **your valuables**).

...

Valuables

Jewellery, watches, items made of or containing precious metals or semi/precious stones, furs, binoculars, ... any kind of photographic, audio, video, computer, television, fax and phone equipment (including mobile phones), MP3 players, PDAs, ...”

The Complainants’ Claim

The First Complainant reported the theft to the Provider by telephone on **18 January 2019**. During this call she explained that the Complainants attended a prospective wedding venue and were in this venue for approximately 30 minutes while their luggage was left in their hire car. She also recalled having her mobile phone in her hand while she was at the first venue but it was not in her bag when she returned to the car, having visited the second venue. The First Complainant believed she may have left her phone in the car and this could be what attracted the people who committed the theft. She also stated that she was not sure where she lost her phone; it may have been sometime between visiting the first venue and the second venue.

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The First Complainant explained the stolen bags were out of sight in the boot of the car and when she returned to the car, there was only one bag left. She explained that two small carry-on bags and a backpack were taken and that she had €4,000 in one of her bags. She also stated that she did not know precisely when she had withdrawn this money from her bank account. I note that the Provider's agent advised that the Complainants would need to provide this information in order to progress the claim. The First Complainant then stated that she had withdrawn the money the previous week in one transaction. She listed the other stolen items as being branded earphones, costume jewellery, clothes, shoes, make-up, and medication.

Describing the circumstances of the second theft, the First Complainant stated that her handbag was taken while she was in the hotel lobby. She explained that her daughter was outside the hotel while she was sitting in the lobby and a person attempted to distract her daughter, with a pair of glasses. Her daughter thought the glasses belonged to the First Complainant and called her over, whilst her bag was left beside the Second Complainant at his feet in the lobby, and was taken, unbeknownst to him. Among the items in the bag were the Complainants' passports together with €450 in an envelope, the First Complainant's purse which had €250 in it, and make-up.

In the course of the telephone call, the Provider's agent took a moment to review the Complainants' policy and advised that the €4,000 would not be covered as it was not on the First Complainant's person at the time of loss. It was also explained that the policy would not cover any valuables at the time of loss, unless they were on the First Complainant's person. This meant that the phone and headphones would not be covered. The Provider's agent then set out the claims process and the supporting documentation required, such as the police report and receipts for all items claimed.

In relation to the second theft, the First Complainant was advised that the only items the Provider could consider were the passports, as the bag was not on the First Complainant's person. The Provider's agent advised that the Provider could consider the cost of emergency passports and the remaining value of the passports but would require the expiry dates of the passports. The First Complainant was also advised that medication was not covered under the policy. The Provider then wrote to the First Complainant by letter dated **18 January 2019** enclosing a claim form and outlining the documentation required to establish a claim.

The Complainants completed a *Travel Insurance Claim Form* dated **2 February 2019**. When asked how their holiday was booked, the Complainants ticked the *Internet* box. However, the Complainants did not specify the company with which they booked the trip or the method of payment, as required. The items stolen were listed as follows: cosmetics, medication, earphones, make-up, mobile phone, two travel suitcases, passports, travel radio, cloths, shoes, travel cards, and jewellery.

In terms of stolen cash, €4,000 was taken during the first theft, and €650 was taken during the theft of the First Complainant's bag in the hotel. A detailed list of the stolen items was also enclosed with the claim form which, in addition to the items stolen, listed other expenses such as photocopying and counselling expenses.

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The Complainants also enclosed supporting documentation with their claim form. Two such documents were the police reports in respect of the thefts. It has not been possible to read these reports as they are written in Spanish and the Complainants have not provided verified English translations. Two hotel booking confirmations were also provided. However, the guest named on the first confirmation appears to be the Complainants' daughter. Their daughter's fiancé together with the Second Complainant are named on the second confirmation. Email correspondence regarding the hotel booking was provided.

On **19 November 2018**, the Complainants' daughter received an email from a hotel booking website confirming the reservation of two rooms at a combined cost of €187.20. This email confirmed that payment would be handled by the hotel. Separately, I note that a partial email from the hotel booking website to the Complainants' daughter dated **12 October 2018**, confirmed a payment of €93.20 in respect of the hotel.

A *car Rental Voucher* was enclosed with the claim form. This document does not contain the names of either of the Complainants. The only person named on the form is their daughter's fiancé. The Complainants also provided the boarding passes for their flights. An *Official Receipt* from the Irish Consulate in the amount of €60.00 dated **17 January 2019** was included. However, it does not refer to the Complainants nor does it specify what the receipt related to, or the method of payment.

A number of receipts were furnished by the Complainants relating to various items being claimed for. However, certain receipts relate to items purchased after the date of the thefts and other expenses/purchases following the Complainants' return to Ireland. Other receipts relate to food and drink purchased while abroad. A note from a bag shop located in Dublin and dated late **January 2019** outlining the replacement costs of two bags was also included. Withdrawal receipts from the Complainants' Credit Union dated **25 October 2018**, **12 January**, **14 January** and **18 January 2019** were provided, together with withdrawal receipts from the Complainants' bank from **September** and **October 2018**. The Complainants also provided a bank statement covering the period **30 October 2018** to **24 January 2019**.

Correspondence

I note that the Provider wrote to the Complainants on **12 February 2019** in respect of their claim as follows:

“Having reviewed your claim, I would kindly ask that you forward the following to enable me to further assess your claim:

- *The trip booking confirmation for [the First Complainant's] flight from DUB – XXX, showing the date of travel along with the names of the persons on the booking. This document should also confirm the date the trip was booked.*
- *The damage report from the hire car company confirming the damaged caused by forced entry into the vehicle.*

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- *A full list of the items you are looking to claim for. Please ensure each individual item is listed separately along with the name of the owner of each item, the purchase date and the cost. We require two separate lists for the two separate incidents.*
- *Please provide proof of purchase of your suitcases, we cannot accept the document from [bag shop] as it does not confirm that you originally purchased the bags, when they were purchased and how much they were.*
- *We cannot accept the written receipt from [sports shop]. All receipts must be till receipts on headed paper. Please contact [the sports shops] and request this document.*
- *I note, having reviewed your claim most items that you are claiming for were purchased in [European Country] during the trip. I welcome your comments to this.*

Kindly be advised, we cannot provide cover your personal money stolen abroad, as your money must be on your person at all times. I refer you to the 'Personal money' section of the policy wording:

...

In view of the above, as your money was taken from your bag in the boot of your vehicle and also whilst your bag was on the ground in the lobby of the hotel, I regret that no liability can be accepted for your claim for personal money on this occasion, as it was not on your person at the time it was stolen.

In addition to this, I understand you are looking to claim back for the cost of a new phone. Your policy does not provide cover on new items, only on the original item that was lost/stolen, however, I note that you were advised on your first call, that we unfortunately will not be covering your original phone as it was not on your person at the time it was lost/stolen and as you were not taking due care of your item. Please see below from the 'Personal possessions' section of the policy wording:

...

Kindly be advised, we do not provide cover for the cost of food, drink and photocopying whilst abroad and also we do not provide cover for the cost of counselling whilst in your home country. ..."

Following this letter having been issued, a telephone conversation appears to have taken place, during which the First Complainant explained that she did not hire the car and that she had asked her daughter for the relevant supporting documents, as it was she who had booked the trip. The Provider's agent explained that boarding passes could not be accepted.

A request was also made by the Provider that the First Complainant provide an itemised breakdown of what she was claiming for, giving the example that *cosmetics* was not sufficient and this needed to be itemised. The Provider's letter was then discussed with the Provider's agent outlining that the information requested was required to process the Complainants' claim.

The Complainants appear to have written to the Provider in response to its letter of **12 February 2019** on two separate occasions, each time expressing their dissatisfaction with the Provider's response and requesting that their claim be looked at again. The first letter was sent on **27 March 2019**.

This appears to have been followed by several telephone conversations. In the course of one of these calls, the First Complainant explained that she had given the Provider all the information she had. The Provider's agent responded by advising that a damage report showing forcible entry to the hire car was required, together with an itemised list of what was being claimed for, again giving the example of the cosmetics. I note that during a subsequent call, the Provider's agent explained that supporting documentation was needed to process the claim. However, the First Complainant maintained that the Provider had everything that was necessary to complete the claim. The Provider's agent advised that a booking confirmation was still outstanding.

The second letter referred to above, being an undated letter, was received by the Provider on **18 June 2018**. The Provider responded on **19 June 2019** acknowledging the Complainants' disappointment and enclosed a copy of its internal complaints procedure. The Provider initiated an investigation on foot of the Complainants' letter and wrote to the Complainants by way of update on **15 July 2019**. The Provider also appears to have re-sent the letter of **12 February 2019** on **15 July 2019**.

A Final Response letter was issued on **24 July 2019**. In this letter the Provider explained:

"In line with the travel insurance industry as a whole, we'll always require certain information when assessing claims of this nature. In your case, the additional paperwork we require is detailed in the letter dated 12 February and we can't consider your claim further without this information.

As explained in the letter referred to above, the personal money section of your policy doesn't provide cover for the:

'Loss or theft of personal money, unless it is on your person, locked in a safe or safety deposit box (if one is available) or locked in the accommodation you are using on your journey.'

As your cash had been left in your bags, one of which was stolen from the hire car and the other from the lobby of your hotel, I'm afraid that we can't consider this part of your claim.

With regard to your personal possessions, your policy also explains that you're not covered for:

'personal possessions unless they are on your person, locked in the accommodation you are using on your journey or they are out of sight in the locked boot or covered luggage area of a locked motor vehicle ...'

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In view of the above, we can't consider your claim for any valuable items as defined in the policy if they are left in your hire car or the bag and its contents that were stolen from the hotel lobby. We may, however, consider your claim for the non-valuable personal possession stolen from the car, but will still need all the additional information that we've previously requested. ..."

Analysis

When making a claim under the policy, the Complainants are entitled to claim only for those items which are covered by the policy. Additionally, certain exclusions and limitations are contained within the Complainants' policy. As with all travel insurance policies, certain supporting documentation must be made available in order to verify and process a claim. Further to this, provision 7.6 of the **Consumer Protection Code 2012**, requires a regulated entity to verify the validity of a claim, prior to making a decision on its outcome.

Having reviewed the Complainants' policy, I am satisfied that they are not entitled to expect the Provider to pay benefit for items purchased or expenses incurred after the thefts, for example photocopying, counselling, bus fares, and food and drink. Furthermore, the Complainants have not identified an entitlement to claim these items by reference to the policy or any particular section of the policy. It is only those items stolen during the thefts and covered by the policy, that can be the subject of a claim. The stolen items appear to consist of suitcases, bags, a mobile phone, earphones, cash, travel cards, passports, a travel radio, costume jewellery, clothes, shoes, cosmetics, and medication.

In terms of the cash, which is defined as *Personal money*, I note that cover is offered only if:

"... it is on your person, locked in a safe or safety deposit box ... or locked in the accommodation you are using on your journey. ..."

The evidence in respect of the first theft is that the cash was in a locked case, out of sight in the boot of the hired car, which was also locked. However, as can be seen from the terms of the policy, theft of cash in these circumstances is not covered.

In respect of the second theft, the stolen cash was in the First Complainant's handbag which was at the feet of the Second Complainant. The bag was not on the First Complainant's person as she was in a different part of the hotel with her daughter. Again, by reference to the wording of the policy, theft of cash in such circumstances, is not covered.

The policy offers cover for *Valuables* and *Personal possessions*. A number of the stolen items come under this heading such as jewellery, earphones and mobile phones. As noted above, *Valuables* are not covered if they are left in a motor vehicle, a suitcase or a bag unless they are on the person, in a locked safe or hotel accommodation.

In light of the circumstances in which the thefts occurred, I accept that the Provider was entitled to take the view that the Complainants' claim for *Valuables* did not come within the cover offered by the policy.

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I note however that *Personal possessions* include suitcases and their contents including valuables. In this instance, *Personal possessions* are covered when “... they are out of sight in the locked boot or covered luggage area of a locked motor vehicle.” A claim for *Personal possessions* has not been declined by the Provider and as the evidence demonstrates, the Provider now requires certain supporting documentation from the Complainants, so that it can progress that element of their claim.

The Provider wrote to the Complainants on **12 February 2019**, requesting certain information regarding the claim. This letter also explained why certain items would not be covered such as *Personal money* and *Valuables*. It also outlined that certain other expenses would not be covered.

Having reviewed the evidence and the terms of the policy, I am satisfied that it was reasonable for the Provider to decline cover as outlined in this letter. Insofar as the Provider’s request for supporting documentation is concerned, this relates to a flight booking confirmation, a damage report and, in essence, documentation in relation to items that might be covered under the *Personal possessions* section of the policy.

I note that it was explained to the First Complainant during a number of telephone conversations that a booking confirmation was required, pursuant to the terms of the policy and to validate the claim. In terms of the supporting documentation provided by the Complainants when submitting the claim form, it can be seen that a flight booking confirmation was not enclosed, the hotel booking confirmation does not name the First Complainant, and no proof of any payment for the flights or the hotel by the Complainants has yet been made available. However, boarding passes for each of the Complainants accompanied the claim form. In light of the information provided and although the trip was booked by the First Complainant’s daughter, I am satisfied the Provider’s request for a flight booking confirmation was a reasonable request. Further to this, as the damage report was sought to confirm that the hired car was accessed by forcible entry, I also consider this to have been a reasonable request.

The remaining information sought by the Provider, as noted above, appears to relate to the verification of the remaining items claimed for by the Complainants and may come within the definition of *Personal possessions*. Having reviewed the information provided by the Complainants in respect of the items coming within this definition, I accept that the Provider was entitled to take the position that it was not sufficient to satisfy the claim requirements of the policy, to enable the Provider to properly verify the claim. No original/till receipts or proof of purchase were made available. Submitting a list of stolen items or replacement values is not enough and must be accompanied by the relevant supporting documentation. As a result, I consider the Provider’s requests to the Complainants in this regard to have been reasonable and until this information is supplied by the Complainants to the Provider, I accept that it is not obliged to progress the Complainants’ claim.

While the Complainants have made a claim in respect of their passports, this does not appear to have been addressed in any substantive fashion in any correspondence from, or communication with, the Provider.

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Section 2 of the policy describes the level of cover offered in respect of passports and the *Making a claim* section sets out the documentation required to support a claim for stolen passports. I would note that the Provider is not obliged to accept a claim for stolen passports until the relevant conditions are satisfied by the Complainants.

The Provider's assessment of the Complainants' claim has not yet been completed. However, the Provider has advised the Complainants that it is not accepting certain aspects of their claim. In terms of this decision, I am not satisfied the Provider acted wrongfully and/or unreasonably in refusing to admit the Complainants' claim.

Furthermore, in relation to the outstanding aspects of the claim and the Provider's requests for supporting information, I accept that these requests are reasonable, and that the Provider is not required to continue with its assessment of the claim until this information is supplied by the Complainants.

These events must surely have been very upsetting for the Complainants, during a trip which ought otherwise to have been a happy event. To advance the outstanding portion of their claim to the provider however, it will be necessary for the Complainants to supply the Provider with the outstanding items which it has requested, so that the claim can then be progressed as appropriate.

On the basis of the evidence before me and for the reasons outlined above, I do not consider it appropriate to uphold any aspect of this complaint.

Conclusion

My Decision pursuant to **Section 60(1)** of the ***Financial Services and Pensions Ombudsman Act 2017*** is that this complaint is rejected.

The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.



**MARYROSE MCGOVERN
DEPUTY FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

17 November 2020

Pursuant to Section 62 of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—

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- (a) ensures that—**
 - (i) a complainant shall not be identified by name, address or otherwise,**
 - (ii) a provider shall not be identified by name or address,****and**
- (b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.**

