

The complaint

Mr K complains about Admiral Insurance Company Limited's ('Admiral') decision to decline a theft claim under his motor insurance policy.

References to Admiral include its agents.

What happened

Mr K's car was unfortunately stolen off his driveway during the early hours of the morning in June 2019. So, he raised a theft claim with Admiral and reported it to the local police.

Mr K gave details of the events leading up to the theft taking place. He said his wife used the car the morning before the theft to do the school run. When she returned home in the car, she was unable to find the keys, so they searched the car, but couldn't find them. Mr K said the keys to the car were a keyless fob and only needed to be in the car for it to start. And, as his wife was able to drive home from the school run, he thought the keys were somewhere in the car, or in a bag very close to it. Mr K also said he was able to turn the engine on whilst looking for the keys, which he said meant the keys were most likely somewhere in the car.

Admiral told us Mr K said he'd planned to drive the car to a dealership the following day to try and locate the keys within it.

Mr K said CCTV captured the theft. He said a thief broke the electric gates to the shared driveway leading up to his and neighbouring homes. Mr K considered the thief may have had a device which enabled them to trace the key given the short length of time between the thief breaking in through the electric gates, to stealing the car.

Admiral appointed a third party to conduct interviews at Mr K's home. Admiral said both Mr K and his wife said the car was left unlocked and the keys were most likely inside. Mr K also said the car was left parked as it normally would be, out of sight from the road and behind the electric gates. He said the thief had forced their way into his property by causing a significant amount of damage to the electric gates and stole the car off the driveway.

Admiral suggested the thief may have taken the keys from Mr K's wife before she arrived home after the school run, and later returned to steal the car. But Mr K disagreed with this and said it was more likely the thief used a device during the theft.

Admiral later declined the claim and referred to the terms and conditions of the policy. It said Mr K had a responsibility to safeguard his car from loss or damage and didn't think he'd taken reasonable steps to do so by leaving the car unlocked – particularly given he said it was likely the keys were inside.

Mr K was unhappy about this. He said he'd taken out insurance for the purpose of insuring himself against events such as this. He accepted in hindsight he could've done more to protect his car. For example, he said he could've parked his wife's car in front of his car to

mitigate the risk of a potential theft. But at that time before the theft, he didn't consider there to be a risk.

Mr K also didn't think leaving the car unlocked contributed to the theft given he thought the thief probably used a device to steal the car. He therefore considered the theft would've most likely taken place in any event – even if he'd locked the car and kept the keys by the front door – given he says a device was most likely used. Mr K also says his appeal against Admiral's decision to decline the claim wasn't fairly considered, as the agent that initially declined the claim also responded to Mr K's appeal. As Mr K remained unhappy, he brought a complaint to this service.

One of our investigators considered the complaint. She didn't agree Admiral applied the policy terms unfairly or unreasonably. She also considered how Admiral handled things but didn't agree it treated Mr K unfairly. So, she didn't recommend the complaint should be upheld.

Mr K disagreed. He said the theft of *keyless* cars are common and he doesn't think leaving his car unlocked was material to the theft occurring. He also remained that his car was left parked securely behind electric gates, unsighted from the road and under CCTV surveillance. Mr K also remained dissatisfied with Admiral's appeals process following the claim being declined.

As Mr K remained unhappy with the outcome recommended by our investigator, he asked for an ombudsman to decide the complaint. And so, the case has now been passed to me to make a decision.

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.

My starting point here is Mr K's motor insurance policy. This covers his car for, amongst other things, loss or damage caused by theft. But the policy also says under general conditions of your cover that:

'3. Care of your vehicle

***You** or any person covered by the policy must:*

- *Protect **your** vehicle from loss or damage*
- *Make sure **your** vehicle is roadworthy*
- *Allow **us** to inspect **your** vehicle at any reasonable time **we** ask*
- *Remove the keys or secure any device that allows access to **your** vehicle, if it is left unoccupied*

*If an incident happens, and **you** or any person covered by this policy fails to protect **your** vehicle from loss or damage through:*

- *the inappropriate conduct of the driver; or*
- *the condition of the vehicle, caused or contribute to the accident; or*
- ***your** vehicle being left unlocked or unsecured*

*No cover under the policy will be provided and instead our responsibility will be restricted to meeting the obligations as required by **Road Traffic Law.**'*

Mr K says the terms should've been clearly highlighted to him given its significance here. So, I've gone onto consider this. And in doing so, I've looked at the Insurance Product Information Document which sets out key features, restrictions and significant exclusions of Mr K's policy. This says:

'What is not insured?

- **Poor security:** *we won't provide cover if you leave your car unlocked or unsecured or where keys or other opening device have been left in the car.'*

I think Admiral highlighted that the policy doesn't provide cover in the event a theft takes place whilst a vehicle is left unlocked or unsecured. But an insurer needs to demonstrate it's applied the policy terms in a fair and reasonable way, and that the breach of the term made a difference to the claim. And I think it's done that here, so I'll explain why.

There's no dispute about whether Mr K left the car unlocked. He said he did this because he thought the other keys remained inside, and although he had the spare key, he didn't think to lock it with the other set still inside the car. Mr K also said given the location of where he'd parked it, he didn't think there was a risk of it being stolen. I appreciate it's very unfortunate that what followed was a thief stole the car at the time Mr K left it unlocked with the keys likely still inside. But with that said, I think this demonstrates Mr K breached the policy terms which unfortunately resulted in a theft claim being made.

Mr K says there was a relatively short period of time, as shown by the CCTV footage, between the thief breaking in through the electric gates, to stealing the car. In my view this shows the thief was able to gain entry to Mr K's car within a very short period after approaching it. Given the car was left unlocked, there was very little to prevent the theft occurring and the thief likely used the push start button to start the engine – which Mr K said is the function of starting the car when the keys are inside. Because of this, I'm more persuaded that, by Mr K leaving his car unlocked, this resulted in the theft occurring. So overall, I don't think Admiral has acted unfairly by declining the claim on the basis Mr K left his car unlocked with the keys likely still inside. I think this had a material difference here given the thief didn't have to gain entry to take the car, and likely used the keys that remained inside the turn on the engine and steal the car.

The circumstances of whether the thief knew the car was unlocked, had taken the keys prior to Mr K's wife returning home or used a device to locate the keys remains unclear. But what *is* clear in my view is Mr K's policy doesn't provide cover in the event his car is left unlocked or unsecured. So, I find on balance that Admiral has applied the policy terms in a fair and reasonable way because it's most likely Mr K left the keys in the car and that was how the car was stolen. So, I won't be requiring it to do anything further here.

Mr K also wasn't happy with Admiral's appeals process. This was because his appeal about the claim being declined was responded to by the same agent who'd originally declined it. I accept this would've frustrated Mr K, but I can't say this was unfair or due to an error – or indeed something I haven't seen before. So, whilst I accept Mr K's frustration, I won't be requiring Admiral to do anything under this part of the complaint.

I appreciate my decision will come to disappoint Mr K. But my decision ends what we – in trying to resolve his dispute with Admiral – can do for him.

My final decision

For the reasons set out above, my final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 9 December 2020.

Liam Hickey
Ombudsman