

The complaint

Miss D complains U K Insurance Limited trading as Darwin (UKI) unfairly declined a claim against her motor insurance policy.

Miss D thinks the claim should be met.

What happened

In April 2021, Miss D reported a claim to UKI. She said someone had taken her car without her consent and was involved in an incident with another driver.

UKI took statements from Miss D and her mum. Miss D had said she was with a friend at the time of the alleged theft and incident, whilst her mum was at Miss D's home looking after her children, where she last saw her car before the incident. UKI tried to contact Miss D's friend she was with, to also request a statement, but they were unable to obtain this.

UKI said the statements provided by Miss D and her mum gave conflicting information and held several discrepancies. They also requested Miss D provide her car key, so they could analyse it, to discover when it was last used. UKI said the analysis showed the key was used at 7:25pm on the date the alleged theft and incident occurred – whereas, Miss D said she last used it approximately four hours before this.

UKI said the key Miss D held was last used when the incident took place, meaning, the alleged thief would have had to have taken the key from Miss D's person, and placed it back with her after the incident occurred. They didn't think Miss D had provided accurate information regarding how the alleged theft occurred, as such, they wrote to her in August 2021 with their concerns, and asked Miss D to respond. They said Miss D couldn't alleviate their concerns.

UKI declined the claim and referred to the policy terms. Miss D wasn't happy, so she complained, and as UKI didn't uphold it, she approached our service.

Miss D said the police were involved given the nature of the claim. She said the police carried out forensic investigations and found someone she knew was driving the car on the date the incident occurred, and they were preparing to charge them for aggravated vehicle taking. The police also said dashcam footage showed there were other occupants in Miss D's car at the time of the incident with the other driver, but they were unable to identify anyone else. Miss D said this demonstrates someone took her car without her consent and the claim was genuine. Although, due to UKI's concerns with the information Miss D provided, and the discrepancies, they still didn't agree to pay the claim.

An investigator here considered the complaint and recommended it be upheld.

He agreed there were some discrepancies within what Miss D and her mum had reported to UKI. But he didn't think this demonstrated Miss D acted fraudulently or had tried to provide incorrect information in a bid to gain. He felt given someone had been arrested for taking Miss D's car without her consent, this demonstrated there was a theft and therefore a valid

claim. So, he recommended UKI should reconsider Miss D's claim in line with the remaining policy terms, and remove any adverse information following the claim decline.

Miss D agreed, but UKI didn't. They maintained the important evidence here was that the key Miss D said she held on her person was used when the incident occurred. Meaning the key would have been returned to her after the theft and incident – or, Miss D had given consent for her car to be driven. They also maintained their concerns regarding the information given to them by Miss D. As such, they asked for an ombudsman to decide, so it's now been passed to me.

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.

When an insurer requests information from a policyholder, ultimately what they're trying to achieve is determining whether there is a valid claim. I agree here that there were some discrepancies within the information Miss D provided, and in what her mum described regarding the events. But I don't think it's fair to say these discrepancies should be considered as Miss D attempting to make a fraudulent claim based on what happened.

I think UKI had valid concerns regarding the analysis of the car key Miss D said she had on her person, before and after the theft and incident. UKI said this key was used in the car when the incident occurred, and was then back in Miss D's person, as she provided UKI with it for analysis. UKI said Miss D to date hasn't provided a reasonable explanation in respect of this aspect, along with the other concerns they raised to her in August 2021.

But, another important aspect here in my view, is the information regarding what the police reported to both Miss D and UKI. Neither party disputed the police made an arrest and reported they would be preparing charges against the person who was allegedly driving Miss D's car when it was involved in an incident with another driver. It's been said the charges, amongst other things, include aggravated vehicle taking. Miss D has also said the alleged driver admitted to taking her car without her consent or knowledge.

UKI says the police also explained the dashcam footage from the incident showed there were other people in Miss D's car. Although, the police were unable to identify who those people were, so I don't think this places any considerable weight to either Miss D or UKI's argument.

Therefore, I'm satisfied this demonstrates there was a theft, and as such, a valid claim. So, despite the discrepancies – which I haven't been persuaded should be considered as fraud – I think Miss D reported a valid theft claim against the policy. Whilst I appreciate UKI's concerns about the information Miss D has provided, I consider these to be immaterial given it's been established a theft took place by someone who took it without Miss D's consent.

So, it's for that reason, I also think UKI should reconsider Miss D's claim in line with the remaining policy terms. I don't find they fairly declined the claim when relying on the fraud section of the policy.

I accept my decision will come as a considerable disappointment to UKI, as I've seen they had genuine concerns regarding the information they received, including from Miss D and her mum. But, for the reasons I've mentioned above, I don't think they declined the claim fairly.

Putting things right

UKI must reconsider Miss D's claim in line with the remaining policy terms, and remove any adverse information (if applicable) from external databases relating to the claim regarding Miss D.

My final decision

For the reasons I've set out above, I uphold this complaint. I now require U K Insurance Limited trading as Darwin to do the following:

- Reconsider Miss D's claim in line with the remaining policy terms; and
- Remove any adverse information from external databases regarding this claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 11 March 2022.

Liam Hickey
Ombudsman