

The complaint

Mr S has complained about his car insurer Admiral Insurance Company Limited as it initially delayed settling his claim for the theft of his car. Then a short while after having settled it, and following the car's recovery, it rejected the claim, asking him for all of its outlay to be paid back.

What happened

In January 2021 Mr S reported his car was stolen. Admiral had some concerns about the claim and began making various enquiries. Amongst which it asked Mr S for his key to the car which he said was in his possession at the time the car was taken. Mr S provided the key, which he said was the only one he had been provided with when the car was purchased. Admiral had a key expert check the key.

In late February 2021 Admiral decided to settle the claim and in March paid Mr S around £14,000 as the market value of his car. In early April 2021 the car was recovered. Admiral had a locksmith open the car as it was locked. And then an engineer assessed it. The engineer said that the key Admiral had been sent couldn't be used remotely to open or lock the car and placing the key manually in the locks didn't operate them. The engineer said there was no evidence to suggest that the locks had been changed recently and the car couldn't be taken without a key. Admiral reviewed the report and determined Mr S must have given misleading information when he said he had the only key that operated the car in his possession at the time of the theft. It said he had breached the fraud condition on the policy and that it was cancelling any policies he had with it as a result. Admiral said Mr S must pay it back its claim outlay of over £14,000 (which included the settlement it had paid to him).

Mr S was adamant he had given Admiral the key he had been using for the car until the point of the theft. He said the locks must have been changed. When Admiral wouldn't change its position Mr S complained to us, about the claim decision and the delay which had occurred before the initial settlement.

Our investigator felt that Admiral hadn't caused a delay. She also felt it had completed adequate enquiries which had resulted in it fairly and reasonably acting to decline the previously settled claim on grounds of fraud.

Mr S said he felt he was being treated like a liar when the car had been stolen from outside his partner's address. He said the police said there was no way to know if the locks had been changed and he couldn't know what had happened to the car in the time it was missing. He felt the outcome was unfair and asked for an ombudsman's decision.

I reviewed the complaint. I noted Admiral had alleged fraud, which is a serious allegation. As such, where an insurer alleges fraud this service expects it to present a strong level of proof to support that. I had some concerns about some of the proof Admiral had sought to rely on and wasn't persuaded it had done enough to support its allegation of fraud.

I put my concerns to Admiral and asked if it had any further comment to make or evidence to bring. Admiral said it would like to get an original key from the manufacturer to see if that

works in the locks and ignition – this would show one way or the other if the car's locks had been changed since it had been stolen (which might be a reasonable explanation why Mr S's key doesn't work). It told us it had obtained a key and was asking its engineer to reassess the car. It also asked its key specialist for further comment. Once Admiral obtained the further evidence and provided it to us, the complaint was passed back to me to complete a further review.

I wasn't persuaded Admiral had shown that it had fairly and reasonably accused Mr S of fraud. So I issued a provisional decision to sharing my views on the complaint with both parties. My provisional findings were:

"My concerns with Admiral's evidence, as referenced above, are:

- The key specialist's report says the manufacturer can check the key code against the car's vehicle identification number – but Admiral hasn't done that.*
- The key specialist has indicated that the car could be stolen by someone with the right equipment and time to reprogramme it.*
- The key specialist says the key is showing signs of recent and regular wear consistent with the mileage of the vehicle.*
- In contrast the engineer's report notes the wear on the key is not consistent with the mileage. But he is not a key expert.*
- It also seems that the engineer did not have access to the key himself and that all comments about the key in his report have been made by the storage company. I say that as there was only one key in question, the engineer says "[the storage company] have a key" and he did not meet anyone on site.*
- That aside – the engineer's report notes the key blade doesn't open the locks – he doesn't seem to have given any regard to the possibility, as suggested by the key specialist, that the car may have been re-programmed.*
- Whilst Admiral has noted that Mr S said there was no glass on the floor where he had reportedly left the car, Admiral seems to have given no regard to the possibility, as suggested by the key specialist, that the car may have been accessed by other means. Nor does Admiral seem to have considered any possibility of the car having been accessed via the soft roof.*

I see that Admiral's engineer has now tested Mr S's key himself. But I'm not persuaded that Admiral has sufficiently answered any of the other concerns I've raised.

Admiral has shown that the key Mr S presented does not work in this car. But its key specialist felt the key's wear was consistent with it being used for a car which had done the mileage of Mr S's. Admiral's engineer's view was different – but I think most weight reasonably has to be given to the key specialist in this instance. The engineer reported that someone in a local manufacturing garage said the key wasn't what they'd expect to see for this car – it was missing a logo. But the key specialist said that after-market keys sometimes don't feature a logo. The engineer has shown that the key was made a few months after the car was registered. So it clearly wasn't an original key for the car – but that doesn't mean that a replacement key, at some point, wasn't provided and then used by Mr S.

The key clearly doesn't work in the car currently. But the car was missing for three months. Whilst the engineer did initially say there was no sign the locks had been changed recently – he didn't support that assertion with any explanatory detail. And I note that in his most recent report he says this can't be determined by a visual inspection – the only way to know whether the locks have been changed is to get a key made by the manufacturer. I think that would have been a simple way for Admiral to clearly show, had it wanted to, whether the car's locks and ignition had been changed in that time. Indeed Admiral even told this service

it was looking to do exactly that before sending the engineer back out – and that an original key had been provided. But then its engineer only tested the key Mr S had given Admiral whilst again saying that he didn't have an original key from the manufacturer. So Admiral hasn't shown that the car's locks and ignition were the same as when Mr S had possession of the car – such that he's most likely been untruthful with it about using the key he'd said was his to operate the car.

Regarding the method of theft Admiral's key specialist indicated that the car could be started by a thief, carrying the right equipment and having sufficient time to recode a key for the car. Admiral though when asked about this possibility said Mr S only reported leaving the car for around 15 minutes which is very quick for the thieves to be able to recode a key and complete a full lock change. But no-one has suggested that the car's locks were changed or would need to be changed for the car to initially be stolen. The door lock might have been picked and Admiral hasn't commented on the suggestion that access to the car's interior could also have been gained via its soft roof. Regarding re-coding of a key, I note Admiral's comment does not come from a key specialist or engineer. And I'm generally aware that cars can be recoded to a new key, with the right equipment, within about 10 minutes. Therefore, I'm not persuaded that Admiral has reasonably shown the car was most likely stolen by a thief who had a key, either as a result of Mr S having left the car unlocked with the key inside, or any other means. So I don't think it's shown that Mr S has misled it about the circumstances leading up to the theft.

Given my concerns stated over the evidence provided, and my findings set out here, I'm not persuaded that Admiral has shown its allegation of fraud was fairly and reasonably made. Admiral has told us it hasn't yet marked any industry databases in respect of the fraud. If my final decision remains the same and Mr S accepts it, it now won't be able to do that. And it will have to remove any record of fraud from any of its own databases (including those within its extended group of companies).

Admiral's final response letter refers to Mr S's policy remaining cancelled – and that, due to what it saw as a fraud, it would cancel any other policy he held with it/its group of companies. From Admiral's file it seems as though Mr S's policy for this car was cancelled in line with the policy terms following Admiral's total loss settlement. That was before the car was recovered and fraud alleged. So that policy wasn't cancelled on the grounds of fraud. And I'm not sure if Mr S did have any other policies with Admiral which it cancelled. If he did then, if Mr S wants it to, it will have to reinstate them. If they're reinstated the cancellation marker will have to be removed. If they aren't reinstated the cancellation record will have to be changed to show the policy was cancelled by Mr S. If Mr S suffered any financial loss due to Admiral cancelling any other policies on the grounds of fraud, upon sight of proof from Mr S showing his loss, it will have to reimburse that, plus interest.*

Admiral had settled Mr S's claim before the car was recovered. It's since said it's declining it on grounds of fraud and, as such, it wants its claim outlay back. It hasn't put forwards any other grounds on which it feels it can reasonably reclaim its outlay. As I've explained, I'm not persuaded Admiral has shown that its allegation of fraud was fairly and reasonably made. It follows that I'm going to direct it to cease chasing Mr S for its claim outlay.

I know this claim took a while to progress to settlement being made. But I think Admiral's enquiries were generally reasonable and it did move things on in a reasonably timely manner. I do think its enquiries which began after the car was recovered weren't handled very well and delays did, I think, occur. But I don't think Mr S was materially affected by this – he'd had payment for the loss and Admiral hadn't told him the nature of its investigations. That said, when it came to Admiral accusing Mr S of fraud, I understand that was particularly upsetting for him. As was Admiral's demand for him to reimburse the substantial claim outlay. I think Admiral should pay Mr S £500 compensation.”

Mr S confirmed he had nothing to add. Admiral asked that I review my findings.

Admiral said:

- “The locksmith” hadn’t confirmed that the wear on the key matched Mr S’s car – only that it is consistent with being used as a main key.
- “The locksmith” only saw one key, whereas the engineer saw the car as well, so his view on the condition of the key should be given greater weight.
- It had called the manufacturer to ask if the key is coded for this car, but it had been told that the age of the car means this information isn’t available.
- Reprogramming the car wouldn’t change the barrels of the car’s locks and ignition, and the engineer has confirmed that these have not been changed. So the key Mr S provided, if he had been using it, should have worked.

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.

“The locksmith” – more correctly referred to by me previously as the key specialist – did not see the car. But the specialist’s opinion on the condition of the key was given in light of the age of the car and its last known mileage (from the MOT a couple of months before the loss). I don’t think seeing the car itself would have added much to that assessment. And when the engineer did eventually assess both the car and the key together, his comment was that the condition of the key was not consistent with the car’s mileage. So his assessment was actually based on the same information as was available to and considered by the key specialist. And I still think it’s relevant that the engineer is not a specialist in locks/keys. He is an expert engineer, so his view does carry some weight. But the key specialist has a focused expertise in keys. So it follows that when assessing the condition of a key, the key specialist’s view is given most weight.

I haven’t seen any evidence of a call like this taking place with the manufacturer. But Admiral did tell us that it had asked the manufacturer for an original key for this car – and that one had been supplied. Its engineer only ever said that there was no evidence the locks had been changed recently – that is not quite the same as confirming they had not been changed. And the engineer’s final position on whether or not the locks had been changed, *given after Admiral had told us the engineer had been sent to inspect the car with an original key in hand*, was actually that this could *not* be determined by a visual inspection – only by getting an original key.

Admiral’s response has not changed my opinion on this complaint. I remain of the view that Admiral has not shown that its accusation of fraud against Mr S was fairly and reasonably made. So my provisional findings have not changed – and they, along with my comments above, are now the findings of this, my final decision.

Putting things right

I require Admiral to:

- Remove the record of fraud from its own databases – it says it hasn’t so far updated any industry databases with the fraud marker, it now won’t be able to.

- If any other policies for Mr S have been cancelled, on the grounds of fraud – reinstate them, if Mr S wishes it to.
- If any are reinstated, remove the record of the cancellation. If any aren't reinstated, change the record of cancellation to show the policy was cancelled by Mr S. In either scenario that should be done on all of its databases.
- If Mr S suffered any financial loss due to it cancelling any other policies, reimburse that loss. Mr S will have to send it evidence in this respect within 28 days of the date upon which he accepts my final decision, if he does. Admiral will then have to settle his losses plus interest* from the date the loss was incurred by Mr S until settlement is made. If Mr S takes longer than 28 days to provide the evidence, Admiral will have to add interest to the settlement from the date of loss up to the 28th day after Mr S accepts my final decision (if he does), and again from the date it receives the evidence until settlement is made.
- Cease chasing Mr S for reimbursement of its outlay.
- Pay Mr S £500 compensation.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs requires Admiral to take off tax from this interest. If asked, it must give Mr S a certificate showing how much tax it's taken off.

My final decision

I uphold this complaint. I require Admiral Insurance Company Limited to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 September 2022.

Fiona Robinson
Ombudsman