

## **The complaint**

Mr P has complained about his car insurer Admiral Insurance (Gibraltar) Limited because when he claimed for fire damage to his car, it accused him of fraud, declining his claim and cancelling his policy.

## **What happened**

Mr P made a claim to Admiral for fire and smoke damage to his car. He said he'd returned home in the early hours, seen the hazard lights flashing on his car, got his keys from inside the house and opened the car to find it filled with smoke. Admiral examined the car and interviewed Mr P. Admiral said it felt Mr P had misled it during the course of the claim. It was particularly concerned that Mr P had told it the car was locked when, as far as it was concerned, this can't have been the case. Admiral accused Mr P of fraud, declined his claim and cancelled his cover. Mr P complained to us.

Our Investigator didn't think Admiral had done enough to justify a finding of fraud against Mr P. She said that, amongst other things, it should reinstate the cover, and consider the claim.

Admiral said it disagreed. Admiral said Mr P had been very clear with it that he had locked the car when he left it. And yet there was no sign of forced entry to the car. It felt its decision that Mr P had likely misled it was fair and reasonable. It also said it was likely Mr P had not held a valid driving licence.

Our Investigator reviewed matters. Regarding the driving licence she noted that Admiral itself had accepted that Mr P had not misrepresented to it the type of licence he had. And she noted that given the circumstances of the claim, that Mr P's licence type wouldn't have made a difference. Regarding the fraud, in summary, our Investigator said Admiral had not shown that Mr P likely knew the car was unlocked whilst saying it was locked.

The complaint was passed for an Ombudsman's consideration.

## **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.

Having done so, I agree with our Investigator – Admiral has not done enough to show that its decision to accuse Mr P of fraud was fair and reasonable. As such I'm upholding this complaint and making awards in line with the views issued by our Investigator.

Admiral, in responding to our Investigator, brought up an issue about Mr P's licence. I understand that Mr P was asked about this when he initially called Admiral. And I think that was reasonable. But I also understand that since then Admiral decided that really it had no issue with the licence in terms of policy liability – it did not think Mr P had misrepresented his licence details to it. And as Mr P wasn't driving at the time of the incident that led to the claim, the licence did not have any impact on the claim. But also, when Admiral declined the

claim on grounds of fraud, it did not look to reserve its rights to review the licencing position further. I think that reflects the fact that it had decided this was not an issue for it. It also means that it can't fairly or reasonably bring this up now, or later, as a bar to the claim being settled. When Admiral reviews the claim, it won't be able to rely on anything in respect of the licence to remove or restrict its liability for settlement.

Like our Investigator, I don't think Admiral has done enough here to show Mr P most likely acted fraudulently. Admiral knows that in matters of fraud, this service expects insurers to provide some clear, strong proof to support such an allegation. I think Admiral simple has not done that here.

Fraud is essentially where a policyholder misleads the insurer with an intent to gain a benefit they would not otherwise be entitled to under the policy. Most car insurance policies will require a car to be locked when it is left, and if it is not and something happens then it may well be that any claim would be declined. So insurers will often want a policyholder to tell them if the car was locked or not when it was left – as Admiral did here. An insurer will then likely look to see whether its most likely the car was locked. If the insurer finds that it wasn't, but the policyholder said it was, then that is going to be a concern for the insurer, as it was for Admiral here. And I can understand that Admiral needed to investigate that. So I think that Admiral's concerns and enquiries in this respect were reasonable. But the policyholder saying the car was locked, and the car possibly being unlocked at the time of the incident, does not necessarily mean that the policyholder deliberately misled the insurer about the car having been locked when they left it.

Here Mr P was relatively consistent with his account of the circumstances relevant to this incident. I think it's fair to say that there are some differences between the accounts – but I bear in mind that the method by which the accounts were given varied – one was an on-line record, and two were verbal. It is also clear that Mr P's English, verbally at least, is very limited. During both verbal accounts an interpreter was used, initially Mr P's friend and during the second verbal account, a professional translator. I think the differences in any of the accounts can be explained because of Mr P's limited English, the difference in the way the accounts were given and that with better translation more, and more specific, details were able to be gained from Mr P.

The issue really is that Mr P told Admiral the car was definitely locked – not just that he believed it was locked. He said he checked the doors. But Admiral thinks that can't be true.

Admiral had an engineer check the car. The engineer found that there was no sign of forced entry to the car, including that there was no damage to the door locks or frames. So Admiral has concluded that this must mean that the car was unlocked when the criminal/s came across it – that Mr P must have given it incorrect information when he said he had locked it. But I'm not convinced that Admiral's conclusion that the car must have bene unlocked is robust enough, not based as it is only on the engineer's comments about signs of force. In saying that I'm conscious that there are many methods by which criminals might gain access to a car, and that some of those won't cause any damage to the car itself, including the locking mechanism.

I know Admiral also has concerns that the car was locked when Mr P returned home and found it full of smoke. Admiral thinks it is unlikely that a criminal, having set fire to the car would have taken the time to lock it again, and if they had, that would also have meant they'd had a key. But I note that Admiral's investigators felt that the fire may have damaged the wiring, causing the door to lock when it otherwise wouldn't have, that damage like this could also have affected the use of the fob for unlocking purposes. And that Admiral's engineer confirmed damage to the wiring. All of which accords with Mr P's account of finding

the car – that the door was locked and that he tried the fob but had to use the key blade to unlock it manually.

In my view, Admiral has not shown that Mr P's car was likely left unlocked at the time of the incident – that he knew this was the case and that he tried to mislead Admiral by stating the car was, in fact, locked. As I said above, Admiral has not shown that its accusation of fraud has been fairly and reasonably made. It will now have to act to put that right.

I know Mr P was also concerned about Admiral having disposed of his car. Admiral's actions, and the impact on Mr P in this respect, though were all tied into the fact that it was declining the claim for fraud. But I am now making Admiral consider Mr P's claim – and that may or may not result in Mr P getting settlement for his car. So, if, once Admiral has made its further decision on the claim, Mr P feels he has incurred a loss because of the claim outcome in light of the fact his car was disposed of, he can make a further complaint.

### **Putting things right**

Mr P has been disadvantaged by Admiral's unfair and unreasonable claim decision. He has also been caused distress and inconvenience. Being accused of fraud in itself is upsetting but it, along with the record of the cancellation affected by Admiral, has also meant that Mr P has been unable to get insurance elsewhere, which has affected his ability to drive. To make this right I require Admiral to:

- Remove the record of the fraud from its own and any industry database.
- Amend the cancellation record to show the policy was cancelled by Mr P – on its own and any industry database.
- Consider the claim in line with the remaining terms and conditions of the policy.
- Pay Mr P £10 per day from 19 March 2022, plus 8% simple interest on each amount, from each date it is payable on, until settlement is made.
- Pay Mr P £300 compensation for distress and inconvenience.

\*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 P a certificate showing how much tax it's taken off.

### **My final decision**

I uphold this complaint. I require Admiral Insurance (Gibraltar) 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 P to accept or reject my decision before 24 February 2023.

Fiona Robinson  
**Ombudsman**