

The complaint

Mrs C complained that her claim for a stolen mobility scooter was unfairly declined by China Taiping Insurance (UK) Co Ltd (“CTI”) under her scooter insurance. Mrs C was represented during the claim, but for ease and simplicity, I’ll only refer to Mrs C.

What happened

Mrs C’s mobility scooter was stolen whilst attending a social event. The police recovered the scooter, but it was badly damaged so was no longer safe to drive and was uneconomic to repair. Mrs C made a claim to CTI for the theft of her scooter.

CTI decided to decline the claim. It said the circumstances of the theft were excluded by the policy. It said: *“As the product was left for over an hour since last driven and not chained, this would fall within the policy exclusion”*.

Mrs C doesn’t think this was fair as she said she didn’t receive all the policy documentation and what she did receive was unclear. As she had removed the key from the scooter, she thought her claim should be settled. A goodwill gesture of £250 was paid.

Our investigator decided to uphold the complaint. He thought the policy documentation was ambiguous and open to different interpretations. He didn’t think the exclusion clause that CTI relied on was relevant in the circumstances of the claim. CTI disagreed, so the case has been referred to an ombudsman.

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.

I have reviewed the policy. The policy provides insurance for scooters and powerchairs. I’d normally expect a policy to be clearly set out, firstly highlighting what perils are covered by the policy, followed by any specific or general exclusions to the policy.

The policy is confusing to read, but I can see it intends to cover *“accidental damage”* and *“personal liability”*. The policy itself isn’t clear that it covers theft. Under accidental damage, the policy states *“in the event of loss or damage as a result of a sudden, unexpected and accidental cause to the property [e.g., scooter]”*. There is no specific mention of theft. However, CTI declined the claim not because the policy didn’t cover theft, but because of an exclusion clause.

So, I’ve looked at the exclusion clause. It *excludes “loss of or damage to property, left for more than one hour since it was last driven by you, unless it is secured to an immoveable object by a metal padlock and chain”*. Therefore, the policy suggests to me the policy covers accidental damage, provided the scooter is secured when left unattended. However, the policy itself is quiet on the theft peril. I would normally expect a policy to show separately perils for theft and accidental damage. So, I find this policy and claim confusing, as CTI hasn’t declined the claim because theft isn’t covered. It has declined it due to an exclusion

relating to accidental damage. Therefore, my assumption is that CTI believe theft is covered by the policy.

CTI has told us its customers normally receive a welcome pack which includes several documents, such as the policy schedule, policy and product information (“*IPID*”). Mrs C has explained to our service that she never received the product information document. CTI said its normally sent out.

Anyway, I have read the product documentation to see if this provides any further information. The product information is much clearer than the policy. It lists what is insured, including “*loss or damage as a consequence of any sudden, unexpected and accidental cause, including fire, theft, storm and flood*”. I think there is a lack of consistency between the policy documentation and the product information. The documents are written very differently and can be interpreted differently.

The product documentation also says what’s not covered. It specifically lists an exclusion under loss or damage whilst [the scooter is] unattended and a separate exclusion clause specifically for theft which reads “*whilst unattended, unless the starter key has been removed*”. CTI declined the claim using the policy terms. However, I think the product information could be interpreted that theft is covered provided the starter key has been removed.

Mrs M said she had removed the starter key and I haven’t seen any evidence to show that she didn’t. Therefore, I don’t think in either the policy documents or the product information, it’s clear what’s included in the insurance cover and what isn’t. Certainly, I would expect the policy documentation to stand up on its own and be clear to the reader.

I’ve also considered Mrs M’s vulnerable circumstances. I think in Mrs M’s circumstances it’s likely for it to be harder for her to understand complex documents than the average person. I think there is too much ambiguity in the policy document, which is the primary contract for which defines the insurance provided. I find the product information lacks consistency with this key policy document. Therefore, I don’t think it’s unreasonable Mrs M didn’t really understand the expectations of her under the cover.

Therefore, in these circumstances, I think CTI should honour Mrs C’s claim for the stolen scooter in line with the remaining terms and conditions of the policy. As I don’t think it was reasonable to apply the exclusion clause when the policy was unclear. I don’t think CTI were fair to decline the claim. I don’t think the supporting policy documents provided a sound basis for it to decline the claim. Therefore, I uphold this complaint.

It’s not clear what the £250 compensation was paid for. However, considering what’s happened in the delay to this claim due to it been unfairly declined, I think £250 is a sensible level of compensation overall to reflect what’s happened. So, I won’t be awarding any further amount.

My final decision

My final decision is that I uphold this complaint. I require China Taiping Insurance (UK) Co Ltd to:

- Settle Mrs C’s claim for the stolen scooter in line with the remaining terms and conditions of the policy.
- Pay the £250 compensation originally offered (if it hasn’t already).

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs C to accept or

reject my decision before 9 August 2023.

Pete Averill
Ombudsman