

## **The complaint**

Mr S has complained about his motor insurer Admiral Insurance (Gibraltar) Limited because it has accused him of fraud, cancelled his policy, declined his claim for theft of his car's wheel and is demanding its outlay of around £2,500 be reimbursed.

## **What happened**

In April 2022 Mr S found his wheel had been taken from his car. He noticed damage to the car too. He made a claim to Admiral. Admiral felt the nature of the theft was unusual, and its experts felt that the damage identified likely wouldn't have been caused by thieves taking the wheel. Admiral felt Mr S was acting fraudulently. So it told him so, declined his claim and cancelled his policy. It noted it had spent £2,720 on the claim so far, which included hire car costs, it asked Mr S to reimburse this sum.

Subsequently Mr S found alternate insurance elsewhere, at an increased cost. Mr S complained, not least about having to bear the cost of repairing the damage to his car, to the Financial Ombudsman Service.

Our Investigator felt Admiral hadn't shown its fraud allegation had been fairly and reasonably made. She said it should remove the record of fraud, as well as any cancellation markers, consider the claim, stop recovery action for its outlay and pay Mr S £500 compensation. She later told both parties that compensation for Mr S's loss of use of his car as well as reimbursement of his increased policy premium plus interest, should be paid by Admiral too.

Mr S said he'd sold the car rather than repairing it and the premium for his partner's policy had increased too. He said this was likely because of the fraud allegation as he was a named driver. Admiral said it would want to see if the cancellation itself had affected any premium Mr S had been charged. It said that if the Ombudsman decision remains in line with the Investigator's view, it will set up a new claim for each of the pieces of damage identified by Mr S, with an excess applying for each.

Admiral though otherwise objected to the findings. It said there had been several areas of damage Mr S had pointed out to it. It didn't think he could have been unaware of all of them, such that he had merely mistakenly suggested they were related to the theft. It said there were then a number of implausible issues within the detail of the theft itself, including that it seems the thieves could have taken the car itself, but instead they took a lot of risk to spend time with the car on the drive stealing just one wheel.

Our Investigator reviewed matters. She felt that Admiral had not shown the theft happened in a way contrary to the cover allowed on the policy nor that Mr S had done anything, such as having left the car unlocked, to mean Admiral would likely not be liable for the loss. She wasn't minded to change her view on the complaint. Admiral, therefore, asked for an Ombudsman's consideration.

The complaint was passed to me. I noted Mr S had had access to another car in his household. So I asked our Investigator to let both parties know I wouldn't be minded to make a loss of use award in this instance.

In reply, Mr S said his partner often worked away, although he was sometimes able to borrow her car.

### **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've considered the circumstances of this theft. I understand that Admiral has concerns about it – that maybe the wheel wasn't stolen by thieves at all. And that certainly a lot of the damage Mr S identified with the car after the accident was unlikely to be related in any event to a theft of a wheel. But Admiral has accused Mr S of fraud. Fraud is a serious allegation to be levelled against a policyholder, with such having potentially significant consequences for them. As such, when an insurer accuses a policyholder of fraud, this service expects that to be supported by strong evidence. If it isn't, then it's unlikely we'll find the accusation was fairly and reasonably made.

What will equate to strong evidence will depend upon the circumstances and relevant issues of each case. But in general terms an insurer, citing a list of worries or concerns, will likely not equate to strong evidence of a fraud having occurred.

Bearing that in mind, I note that Admiral thinks Mr S can't have just been mistaken about the damage it believes is not related to the theft. Rather Admiral thinks Mr S must have been aware of this damage, pre-existing the reported incident, and had, therefore, tried to claim a benefit for it under the policy. If, and I emphasise that word, if that were the case, Admiral would also have to show that was a benefit Mr S was not otherwise entitled to – i.e. that the damage just wasn't covered by the policy or it was excluded from cover for some reason. But the notable damage in question is some scratches and a dent on the rear bumper, with also some slight soiling to the dark seat cover along with indentation marks in the door pad. I'm not persuaded Admiral has reasonably shown Mr S most likely knew of this damage before it was noted when the theft damage was considered.

I understand that Admiral is also concerned that the theft is unlikely to have happened in the way suggested. That it thinks a thief would've done something differently; likely stolen the car, instead of spending time and taking significant risks to just steal the wheel. But it hasn't presented evidence in support of that contention. And I'm not persuaded it's reasonable for Admiral to base such an important decision, that Mr S acted fraudulently, on speculation of criminal intent.

I know Admiral has shown that entry to the car (to obtain the locking nuts for the wheel) wasn't forced. So I can understand it thinks this must mean it was left unlocked. With cover for theft in such an instance being excluded. However, it hasn't persuasively refuted Mr S's contention that a device was likely used. Mainly relying on its belief that if a device had been available to the thieves, they'd have stolen the car itself. Seemingly the police thought use of a device was likely and even Admiral acknowledged entry to Mr S's car could have been gained in this way. Interestingly, Admiral has confirmed that it did not opt to investigate what detail the keys or the car's ECU held, with the car featuring keyless entry. So it seems likely that a device could have been used to gain entry to Mr S's car.

So I think Admiral has not done enough to show that Mr S attempted to make a gain from it for something he was not entitled to under the policy. As such, Admiral will now need to do a number of things to put matters right. Including ceasing recovery action on the claims costs it is looking to recover.

Admiral will also need to reimburse Mr S's increased premium costs for any new policy he took for the car subject of the claim (which he later sold). It doesn't actually matter whether the cancellation was declared or not, or even whether the new insurer rated on the claim. Mr S only had to pay for a different more expensive policy, where the claim could be rated for, because of Admiral's unfair and unreasonable cancellation. Otherwise his costs would have remained the same to the date Admiral's policy was due to renew or the car was sold. The sale of the car would change the cover and cost, and my award only applies to any cover Mr S took for the car subject of this claim to the point it was sold. It's not clear to me that Mr S's partner's insurance, the cost of which increased at renewal in 2023, was impacted by the fraud accusation and policy cancellation. In any event, this decision shows that Admiral's accusation and cancellation on grounds of fraud was unfair and unreasonable. So Mr S can show this decision to his partner's insurer if he wishes to and ask it to re-rate the cover.

Mr S was unhappy about Admiral removing the hire car and leaving him without a vehicle. But Mr S has now said he is a named driver on his partner's cover. Bearing this in mind it wouldn't be appropriate for me to make a loss of use award. Such applies when there is no access to another car, but that clearly wasn't the case here, although I note that Mr S says his partner's car was not always available to him. I appreciate that without a car for his sole use, it would have been difficult for Mr S to get to work and to visit a sick family member. But Admiral gave him notice it was withdrawing the hire car so he reasonably should have made arrangements to mitigate any financial losses, which would have been easier for him with another car in the household. And the £500 compensation I've awarded applies in respect of distress and inconvenience caused by Admiral's unfair and unreasonable actions. I think that is a reasonable sum in the circumstances.

I note Admiral's statement that it will now, following my final decision, set up a claim for each of the pieces of damage Mr S identified to it, which it had found were not theft related. If Mr S is unhappy about that, or wishes to continue to claim for these areas of damage, and is unhappy with how Admiral deals with the claim or claims, that would need to be raised separately as it's not something I will comment on in this decision.

### **Putting things right**

I require Admiral to:

- Remove the record of the fraud and cancellation marker from its own and any external database. If needs be, it can amend the cancellation marker to show the policy was cancelled by Mr S.
- Reimburse any extra costs Mr S can show he incurred for insuring his car (before he sold it) during the period the policy with Admiral should have been in place (would have been but for its unfair cancellation). With interest being added to any reimbursed sum from the date that cost was incurred by Mr S until settlement is made.
- Consider the claim in line with the remaining terms and conditions of the policy.
- Cease recovery action for its outlay.
- Pay Mr S £500 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 may require 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 (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 S to accept or reject my decision before 4 October 2023.

Fiona Robinson  
**Ombudsman**