

The complaint

Miss S and Mr Y complain that Admiral Insurance (Gibraltar) unfairly declined their motor insurance claim.

Admiral is the underwriter of this policy i.e. the insurer. Part of this complaint concerns the actions of its agents. As Admiral has accepted it is accountable for the actions of the agents, in my decision, any reference to Admiral includes the actions of the agents.

What happened

In April 2022, Miss S made a claim under her motor insurance policy with Admiral after her car was stolen. Admiral was notified of the loss by Miss S's partner, Mr Y who was a named driver on the policy and the owner of the car.

Mr Y said the car was taken from their driveway in the early hours of the morning. He told Admiral they had two keys but couldn't locate the spare key, which they didn't use. He thought the key was somewhere in the house.

Admiral declined the claim. It said the vehicle key Mr Y had supplied was consistent with being a spare key. It believed the main key had been used to take the car. Admiral said it believed there had been a deliberate attempt to mislead it over the circumstances surrounding the incident and it had no option but to repudiate the claim.

Admiral said the policy would remain cancelled and it would cancel or void all other policies to which Mr Y was connected within Admiral's group.

Miss S and Mr Y complained to Admiral, who agreed to delay cancelling the other policies due to the ongoing dispute. In its response to the complaint, Admiral maintained its position to decline the claim. So, Miss S and Mr Y asked our service to consider the matter.

Our investigator thought the complaint should be upheld. She didn't think Admiral had sufficient evidence to conclude that Miss S and Mr Y were attempting to mislead them and decline the claim. She recommended that Admiral reconsider the claim in line with the remaining terms, remove any cancellation or fraud record if applied and pay them £300 for distress and inconvenience.

Admiral disagreed with our investigator's outcome. It said it was looking to provide some further evidence, but it hasn't done so. So, the complaint was passed to me to decide. I let both parties know that I intended to reach broadly the same conclusions as our investigator, but I thought Admiral should settle the claim rather than reconsider it. I set out what I intended to direct Admiral to do to put things right and I gave both parties the opportunity to send me any further information or comments they wanted me to consider before I issued my decision.

Miss S said she was pleased to see this was largely in line with the investigator's outcome and had nothing further to add. Admiral didn't respond with any further comments.

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've decided to uphold Miss S and Mr Y's complaint. I'll explain why.

In declining Miss S and Mr Y's claim, Admiral has referred to two policy conditions. The first relates to fraud and the policyholder's requirement to answer Admiral's questions "*honestly and provide true and accurate information*".

The second condition Admiral has referred to is regarding care of the vehicle which says:

"You and any other insured person must:

- Protect your vehicle from loss or damage...*
- Remove and secure any keys or device that allows access to your vehicle: if it is left unoccupied..."*

It's important to explain it isn't for me to decide whether Miss S and Mr Y acted fraudulently or failed to take care of their vehicle. Instead, I've needed to consider if Admiral's decision to invoke these conditions was reasonable.

Admiral's concerns relate to Miss S and Mr Y's inability to provide one of the car keys. Admiral has concluded that the missing key was the main key and believes this was used to take the car. It says the key they supplied to Admiral was consistent with being a spare vehicle key.

Admiral says it had clarified the wear and tear on the key Miss S and Mr Y provided with its expert who said the wear patterns would be significantly more if it had been the main key they'd used for the past six years.

It looks like Admiral contacted its key expert to seek this further clarification, after Mr Y responded to Admiral's repudiation letter. Mr Y had told Admiral that Miss S became the main driver of the car in February 2019, after they bought a second car for the household. He said the key they sent to Admiral wasn't the key he'd been using since 2016. He said usage of the car was drastically reduced during the Covid-19 pandemic and MOT information suggested there was only around 8,000 miles usage in the last 2.5 years.

However, Admiral appears to have asked its expert's opinion on the key being used for 40,000 miles, rather than the 8,000 miles Mr Y had said. According to Admiral's repudiation letter, 40,000 was the mileage on the car since Mr Y had taken ownership of it in 2016. The expert's opinion also seems to be based on "*the knowledge that this key has supposed to have been used for 40,000 of those miles*". So, I don't think Admiral properly considered what Mr Y had said about the key they'd sent in only becoming the main key for the last few years, with the car being used considerably less in that timeframe.

I've also considered the fraud investigation report Admiral provided, which includes statements from Miss S and Mr Y who were interviewed in May 2022.

The fraud investigator's opinion was that both Miss S and Mr Y presented evidence in a confident manner, displaying good recall, with neither seeming nervous or hesitant. The only concern was the missing key, which the investigator said might suggest the theft was key aided. However, they also said they believed their type of vehicle was regularly targeted, particularly in the area Miss S and Mr Y live in and are often stolen without access to a legitimate key.

Based on what I've seen, I'm not persuaded it was fair for Admiral to invoke the fraud or care of vehicle conditions to decline Miss S and Mr Y's claim. I think Miss S and Mr Y have provided a plausible explanation as to why the wear on the key they'd provided was less than might be expected for a main key. I don't think Admiral properly considered what they'd said when asking for its key expert's opinion.

Keeping in mind what the fraud investigation report said about Mr Y and Miss S's type of vehicle often being stolen without access to a legitimate key, I don't think it's reasonable for Admiral to conclude that a key must have been used when the vehicle was taken. So, I don't think it was fair for Admiral to decline the claim.

In its repudiation letter dated September 2022, Admiral referred to wording in the policy booklet regarding passing details to fraud prevention agencies. However, it's unclear if Admiral has applied fraud markers on any external databases. If Admiral has recorded Miss S and Mr Y's claim as fraudulent, false or exaggerated on any internal or external databases it should remove those records and confirm it has done so.

Miss S says this has been a stressful experience for her and Mr Y, who have spent many months sending emails to Admiral to try to get things resolved. Concerns about fraud markers against their names have added to their emotional distress. So, I think Admiral should also pay them £300 for the distress and inconvenience they've been caused.

Putting things right

Admiral should:

- Settle the claim, in line with the remaining terms and conditions of the policy.
- Add interest to the above at 8% simple per year* calculated from one month after the claim was made to the date the settlement is paid.
- Remove any records that it may have made on any internal or external databases that Miss S and Mr Y's claim was fraudulent, false or exaggerated. It should confirm that it has done so.
- Pay Miss S and Mr Y £300 for distress and inconvenience.

*HM Revenue & Customs requires Admiral to deduct tax from this interest. Admiral should give Miss S and Mr Y a certificate showing how much tax it's deducted, if they ask for one.

My final decision

For the reasons I've explained, I uphold Miss S and Mr Y's complaint and direct Admiral Insurance (Gibraltar) Limited to put things right by doing as I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S and Mr Y to accept or reject my decision before 27 July 2023.

Anne Muscroft
Ombudsman