

The complaint

Mr A complains Wakam unfairly declined his claim on his motor insurance policy after his car was stolen.

Wakam are the underwriters of this policy i.e. the insurer. Part of this complaint concerns the actions of the representative of Wakam. As Wakam have accepted it is accountable for the actions of the representative, in my view, any reference to Wakam includes the actions of the representative.

There are several parties and representatives of Wakam involved throughout the complaint but for the purposes of this complaint I'm only going to refer to Wakam.

What happened

On 2 August 2022 Mr A's car was stolen from the driveway of his home address.

Mr A reported the theft to the police on the same day and made a claim on his motor insurance policy the next day. He provided video footage of the thief approaching his house that was captured on his neighbour's doorbell camera. Additional CCTV from a local business was also provided.

The CCTV footage showed a person walking along the road towards Mr A's house, where the car was parked on the drive. The footage then showed Mr A's car being driven down the road and out on to a main road a few seconds later.

At the start of December 2022 Wakam declined Mr A's claim. It said based on the footage of the theft it had reviewed, that Mr A had not taken reasonable steps to safeguard his car as per the terms of his policy. It said the theft of his car would not be covered due to its concerns regarding the circumstances and ease of the theft. It said the speed of the theft and that the thief was alone meant a relay method of theft was not possible and its belief was that Mr A hadn't locked his car.

As Mr A was not happy with Wakam, he brought the complaint to our service.

Our investigator did not uphold the complaint. They looked into the case and said although Mr A said his key fob was in his house at the time of the theft, the evidence provided suggested a pre-coded fob was used to steal the car. And it was not an opportunist theft. They said Wakam fairly declined the claim based on the evidence it had.

As Mr A is unhappy with our investigator's view the complaint has been brought to me for a final decision to be made.

What I provisionally decided and why

I reviewed the CCTV footage of the theft and the date and times recorded. It showed a single male walking along Mr A's Road, which is a cul-de-sac. As he approached Mr A's car

he then disappears from view of the camera. The footage shows Mr A's car being driven down the road and out on to the main road - a matter of eleven seconds later.

The male does not approach any other homes or cars, so I do not think this was an opportunistic theft. It is likely it was a targeted theft of the car.

I saw Wakam said it was its belief that Mr A hadn't locked his car and it was therefore not safeguarded. Mr A said the car was locked and the key fob was in his bedroom.

Wakam said the speed at which the vehicle was taken supports this conclusion. It said had the vehicle been locked, it didn't believe an individual would be able to unlock the car, start the engine, and adjust the seat. And it would be highly implausible for an individual to complete all these actions in just eleven seconds using an automatic transmission, had the vehicle been properly locked.

I looked at the report completed by an independent vehicle security expert. The report says; "The speed at which the vehicle is acquired eliminates the possibility that a new fob was coded, as the coding of a fob takes a number of minutes. The fact the individual is alone, and doesn't appear to be carrying relay equipment, rules out the relay method."

Also included within the security experts report it says;

"Even if the vehicle was left unlocked, a device would have to be plugged in and allowed to work, a process which would take longer than the eleven second time period from point of entry to driving the vehicle away." This does not support Wakam's belief that Mr A had not locked his car, and this enabled the theft to take place in eleven seconds.

The evidence provided by the security expert concludes the speed in which the theft occurs suggests a pre-coded(original) fob was used in order to steal the car.

The report says two key fobs are supplied with this car when new. Mr A provided evidence he bought the car with only one key fob. I saw Mr A returned his key fob and it was received by Wakam's representative. Wakam's representative said it was lost in transit between Wakam and its car security expert. The whereabouts of the second key fob is unknown.

I have not seen any conclusive evidence that confirms the car was not locked. And I do not think Wakam has provided enough evidence to support its reliance, upon the exclusion in the policy, that says; "You shall at all times take all reasonable steps to prevent Injury and safeguard your vehicle from loss or damage."

I don't think Wakam can fairly rely on this exclusion to decline Mr A's claim.

Therefore, I intend to uphold Mr A's complaint and require Wakam to re-consider his claim in line with the remaining policy terms & exclusions.

Responses to my provisional decision

Mr A did not respond.

Wakam responded and said it would accept the decision.

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.

As Wakam accepted my provisional decision and Mr A did not respond, I maintain my provisional decision. I uphold Mr A's complaint and require Wakam to re-consider his claim in line with the remaining policy terms & exclusions.

My final decision

For the reasons I have given I uphold this complaint.

I require Wakam to re-consider Mr A's claim in line with the remaining policy terms & exclusions.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 17 August 2023.

Sally-Ann Harding
Ombudsman