

The complaint

Miss S complains that Wakam unfairly declined her claim for theft of personal possessions from her car.

What happened

Miss S had buildings and contents insurance underwritten by Wakam. She claimed under the personal possessions section of her policy after her belongings were stolen from her car. The car was parked on her drive when the theft happened.

Wakam declined the claim because the personal possessions section only covered possessions away from the home. Wakam considered the drive to form part of Miss S's home. Wakam looked at whether cover was available under the contents section of the policy. However, because there was no evidence of force or violence, Wakam said the policy didn't provide cover under the theft section.

Miss S complained. She didn't think it was right for Wakam to consider her claim under the theft section because the policy wording didn't include her drive in the definition of home. She said the personal possessions did provide cover and asked Wakam to settle her claim.

Wakam issued its final response stating that there was no cover under the policy for the reasons it had previously given. Miss S brought her complaint to this service.

Our investigator didn't think Wakam had done anything wrong, so she didn't uphold Miss S's complaint. Our investigator thought Wakam had relied on the correct wording within the policy booklet, and it declined the claim fairly.

Miss S didn't agree. She remained of the opinion that the theft should be covered under the personal possessions section of the policy.

I issued a provisional decision in September 2023 explaining that I was intending to uphold Miss S's complaint. Here's what I said:

provisional findings

The theft itself doesn't appear to be in dispute. The main issue of complaint is whether Wakam considered the claim under the appropriate policy terms and conditions. Miss S said it should've accepted the claim under the personal possessions cover.

Personal possessions claim

The policy defines personal possessions as:

Items that belong to you or for which you are legally responsible including:

- 1. valuables, sports equipment and cycles, and*
- 2. luggage, clothes and any other items you normally wear or carry.*

The policy schedule confirms Miss S had personal possessions as add-on cover, and the policy booklet describes cover as follows:

Personal Possessions

We will cover up to £2,000 per item for loss, theft, damage or accidental damage to your personal possessions while they are:

- a) temporarily away from your home anywhere within the United Kingdom for up to 60 consecutive days, or*
- b) temporarily away from your home anywhere in the rest of the world for up to 60 consecutive days up to £1,000.*

This includes cover for:

- a) personal possessions stolen from an unattended vehicle, if the vehicle is locked and your personal possessions are hidden from view in a closed glove compartment or locked boot,*

The maximum amount insured for personal possessions is £10,000.

Miss S makes the point that her drive isn't included in the policy definition of home, therefore she thinks theft from her car on her drive must be away from the home. The policy defines home as:

The main building which you live in, garages which are part of or attached to the main building, and outbuildings all within the boundaries of the address shown on your schedule. The maximum size of your home in total should not exceed 250 square metres

The definition refers only to buildings, so I accept Miss S's reasoning that her drive isn't included.

The next consideration, then, is whether the drive is reasonably classed as "away from the home", as referred to under the personal possessions cover.

Looking at the insurance product information document (IPID) which summarises Miss S's cover, it shows the following under the "add-on covers" heading:

Contents:

- Accidental damage to your contents,*
- Personal possessions away from your property.*

The definition of property is:

The risk address shown in your schedule which you are legally responsible for.

So, taking into consideration the relevant policy definitions, I'm satisfied that Miss S's drive can reasonably be considered part of her property as it is enclosed within the boundaries of the address on her schedule. Therefore, I don't think Wakam unfairly declined her claim under the personal possessions section of the policy because her car was not away from her property.

Contents in the open

Miss S didn't think Wakam should've considered the claim under the theft section of her contents insurance. I don't think it was unreasonable for Wakam to look for other parts of the policy under which Miss S's claim might've been successful.

Miss S's policy provides cover for contents within the boundary of her home. I've already explained that the drive meets this definition. The policy provides cover as follows:

15. Contents in the open and within the boundaries of your home

We will pay up to £1,000 per incident for loss or damage to contents (not including pedal cycles) which are in the open or under a carport within the boundaries of your property caused by covers 1, 4 to 12, also Option A - Accidental damage to your contents if you have selected that cover.

We don't cover:

- a) loss or damage to valuables, money, credit cards or business equipment;*
- b) loss or damage to plants, trees, flowers and shrubs in moveable pots or containers caused by the weight of snow;*
- c) loss or damage caused by storm, frost or flood;*
- d) theft of pedal cycles unless they are securely locked to a solid object which cannot be moved; and*
- e) loss or damage which happens while your home is unoccupied or unfurnished.*

Theft is included within covers 4 to 12, so the conditions must be met to have a successful claim.

5. Theft or attempted theft

We will cover loss or damage to your contents while they are in your home if:

- a) this was caused by theft or attempted theft following forced and violent entry to your home;*

The concern I have here is that there'd be no reason to expect evidence of force and violence to the home if the contents are already in the open. Wakam declined the claim because there was no evidence of force and violence to the car. But the car does not fall within the definition of home, so I don't necessarily think it's fair to rely on the absence of force and violence to Miss S's car as a valid exclusion. There's no mention of what the policy does or doesn't cover for theft from a car on the drive. So, in the absence of any clear exclusion, I can't say that Wakam fairly declined the claim under the theft of contents section.

For that reason, I'm minded to ask Wakam to reconsider the claim without relying on the force and violence condition.

Claim handling

Miss S says Wakam didn't handle her claim as well as it should've done. She says it repeatedly asked for information she'd already provided, and it delayed reaching a decision on her claim. She also said Wakam didn't respond to her complaint as it should've done.

While I accept Miss S was unhappy with the level of service she received, I haven't seen any evidence to support that. I understand Miss S is aware that I can't consider complaint handling as part of my decision.

Therefore, I see no reason to require Wakam to make any compensation payment.

Overall, I think this complaint has come about because of a lack of clarity in some parts of the policy document. I think there's a common-sense approach to the claim which could've been taken, but instead there's been dispute about specific definitions. Therefore, I've taken the policy definitions in their strictest sense, which means Wakam can't expressly rely on the requirement for evidence of force and violence to gain entry to the home for a theft which happened from Miss S's car outside the home. But I realise Wakam may not have considered the remaining parts of the policy once it decided to decline the claim, so at this point I don't think it's appropriate to simply ask it to pay the claim.

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Wakam didn't provide any further comment.

Miss S said her stance had been properly considered but she pointed out that Wakam did look at other parts of the policy, and she provided evidence. Therefore, Miss S thought Wakam should be required to pay the claim rather than reconsider it.

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 can understand why Miss S would like Wakam to simply pay her claim. The evidence she provided – its final response letter - shows that it had already considered other parts of the policy. I accept that. However, the letter explains to Miss S why Wakam didn't think her claim fell within either of two parts of her policy. My provisional decision explains why I don't agree with its reasoning.

However, the policy includes many other sections, some of which will be irrelevant to the claim circumstances, but others may apply. For example, if some of the belongings stolen from the car are excluded from cover, Wakam would need to have the opportunity to consider those items against the policy terms and conditions. To be clear, this is just an example and may bear no relevance in the circumstances.

In the event that no other policy exclusions apply, then it's quite possible Wakam will pay the claim. But I can't fairly make that a requirement at this point. Therefore, I remain of the view that Wakam should reconsider Miss S's claim.

However, should Miss S be unhappy with Wakam's reconsideration of her claim under the remaining terms and conditions of the policy, she'd be entitled to raise a further complaint.

My final decision

For the reasons I've explained above, and in my provisional decision, my final decision is that I uphold Miss S's complaint and Wakam must:

- reconsider the claim without relying on the force and violence condition for contents in the open.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 7 November 2023.

Debra Vaughan
Ombudsman