

The complaint

A company, which I'll refer to as F, complains that A plan holdings (APH) failed to highlight that the tracking device on its vehicle required activation for cover to apply.

Mr W, a director of F, brings the complaint on F's behalf.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

F took out a Complete Mini Fleet insurance policy through its broker, APH, which renewed each year. In March 2021 F made a mid-term adjustment to the policy by adding an additional vehicle onto the cover. The policy then renewed in October 2021. The policy was sold on an advised basis and information was sent to F to review by email on both occasions.

In January 2022 F's vehicle was stolen so it made a claim on the policy. The insurer declined F's claim because the security requirements set out in the policy hadn't been put in place - the vehicle didn't have an operational tacking system at the time of the theft.

F says it wasn't made clear by APH that the tracking system on the vehicle needed activation and that APH should have done more to draw this to its attention. Furthermore, it argued that when it added a new vehicle to the policy at a later date, APH clearly informed F that the tracking device would need to be activated for cover to apply, but it hadn't taken the same care when adding the vehicle in question onto the policy.

Our investigator considered F's complaint and concluded it should be upheld. He thought that APH didn't do enough to make F aware that the tracker needed to be operational and had it done so, F would've activated it.

APH didn't agree with our investigator and therefore the complaint was referred to me to consider.

My provisional decision

I sent F and APH my provisional decision on 16 October 2023. I explained why I wasn't upholding this complaint. I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I appreciate this will be disappointing for F, but I'm not intending to uphold its complaint. I'll explain why.

I'm considering this complaint against APH, the client facing broker during the sale and amendment of the policy. So, I am only considering APH's actions in relation to the matter and any loss caused as a result their action. That means I'll consider if they met their obligations as a broker. But I won't consider whether or not the policy

condition in question has been applied correctly because that responsibility lies with the insurer.

The policy was amended and renewed on an advised basis. This means, under the Financial Conduct Authority's (FCA) Insurance Conduct of Business regulations (ICOBS), APH had a responsibility to ensure the suitability of their advice. They also had a general duty to provide appropriate information that is clear, fair and not misleading to enable F to make an informed decision about the policy.

When considering the issue of suitability, we usually take into account things like the extent of cover needed when thinking about a policyholder's needs and circumstances. There's nothing in this complaint to suggest that the extent of cover F was sold was unsuitable. Rather the issue it's raised is that it wasn't made clear to it that the tracker on the vehicle needed activating. As such I've considered whether the information APH gave F about this was enough to allow it to decide whether to continue with the cover.

F's fleet policy contained a condition which stated the following:

"M/4155/2 - Vehicle Security

We will not pay for any claim in respect of theft or attempted theft or taking away without lawful authority if at the time of the loss of or damage the Insured Vehicle(s) shown below is not fitted with the approved security system stated below.

It is a condition precedent to Our liability that the system is fully maintained, operational, with the ignition keys removed and the doors locked when the Insured Vehicle is left unattended.

This clause does not apply within the first 30 days of cover, pending installation of the security system. During this period We will not pay the first 10% of any claim in respect of theft or attempted theft under Section B Damage. The amount You pay is subject to a minimum of £5000.

Security system required - Thatcham Approved S5 tracking system

Registration Number..."

My understanding is that F's claim for the stolen vehicle didn't comply with this condition because the tracker hadn't been activated and therefore wasn't operational.

I have considered all the submissions made, particularly those by Mr W on F's behalf, but I don't think I can say that APH didn't do enough to highlight the above condition to it or bring it to F's attention.

There was clear reference to the security condition within a telephone call between Mr W and APH during the mid-term amendment when the vehicle was added onto the policy. Whilst the reference didn't set out the exact detail of what was required, it did do enough to draw attention to the condition and as such Mr W should have ensured he had read and understood the policy wording in relation to it. The condition itself wasn't unusual for vehicles of this type and APH did point that out while also drawing attention to it.

From the evidence I have seen, APH made F aware that the vehicle required a

specific tracking system, and they also contacted the dealership to ensure that this requirement was met before adding the vehicle to the policy. Following this conversation F ought reasonably to have known that the tracker would need to be activated. The renewal email in October 2021 also contained the security condition which outlined the detail of what was required. The email said Mr W should read through the attached documents and confirm it meets his requirements. APH provided contact details if Mr W wanted to discuss it further or if he had any queries. The renewal email gave Mr W a further opportunity to refer back to APH if he didn't understand anything. On that basis I don't think I can reasonably expect APH to have done anything more in the circumstances.

A submission had been made by Mr W on how APH could have made the policy condition clearer, and this included an email from APH when adding another vehicle onto the policy which specifically stated that the tracker need to be activated. I've considered this, but I don't think APH needed to do anything more than they already did to draw the relevant condition to F's attention. It was then up to F to satisfy itself as a policyholder that it was familiar and complied with the requirement in order to make a successful claim on the policy. So, I don't think APH are at fault because F didn't.

For the reason explained above, I think APH did what I'd expect them to do. As things stood the covering email sent with the mid-term amendment and renewal letter made clear that he needed to ensure he read and understood the documents, which contained the security requirements and F took out the policy on that basis.

Neither F nor APH responded to my provisional 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 neither party have provided any further evidence or comments for me to consider, I see no reason to depart from the outcome I've reached in my provisional decision.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask F to accept or reject my decision before 30 November 2023.

Ankita Patel
Ombudsman