

The complaint

Ms M complains that Admiral Insurance (Gibraltar) Limited unfairly declined her motor insurance claim and tried to recover third-party costs from her.

What happened

In October 2019, Ms M's car was taken from her driveway by a family member who was not insured to drive it. The car was then involved in an accident and damage was caused to a third-party's vehicle. The family member was prosecuted and convicted of aggravated vehicle taking – or aggravated 'TWOC'. He received a suspended prison sentence of two months for the offence. He was also subject to a curfew, disqualified from driving and required to undertake unpaid work.

In the meantime, Ms M made a motor insurance claim to Admiral. Admiral investigated the claim and said it thought there were some inconsistencies in the information Ms M had provided. It concluded Ms M had deliberately attempted to mislead it and so it declined her claim. In doing so, it said it was relying on its general 'fraud' exclusion. Admiral said Ms M needed to pay its costs, which included reimbursing the third party.

Ms M complained to this service. Our investigator said that as Ms M's family member had been convicted of taking her vehicle without her consent, it was not fair for Admiral to decline Ms M's claim or to hold her liable for the additional costs. Our investigator said that Admiral should reinstate Ms M's claim by treating it as theft. She also said that it would need to remove any fraud markers and confirm Ms M was not liable for any third-party costs. Our investigator recommended that Admiral pay £350 to compensate Ms M for the stress and anxiety caused to her by the way in which it dealt with the claim.

Admiral did not accept our investigator's view. It said the conviction of Ms M's family member did not change its decision to decline the claim because Ms M had attempted to mislead it. As Admiral did not agree with what our investigator said, the matter was passed to me for an ombudsman's 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.

I've upheld this complaint. I'll explain why.

The terms and conditions that apply to Ms M's policy say Admiral will cover her for any damage to her car caused by theft. I understand Ms M's car was deemed a total loss. In those circumstances, the policy says Admiral will pay the market value of the car at the time of loss.

Insofar as they are relevant to this complaint, the terms and conditions also say that Admiral does not have to pay a claim that is any part fraudulent, false or exaggerated or where a policyholder has given a false statement. If Ms M had recklessly or deliberately misrepresented information at any time that could affect the terms and conditions, Ms M's policy can be cancelled and Admiral can seek to recover any costs it has incurred.

Put simply, the terms and conditions say Admiral can decline Ms M's claim and recover third-party costs from her if it thinks Ms M has given it false information.

It is not for me to say whether Ms M has acted fraudulently or not. It is my role to look at whether Admiral fairly concluded that Ms M was in breach of the fraud condition as set out in the terms and conditions.

In my view, it would only be fair for Admiral to decline Ms M's claim for fraud if the alleged inconsistent information led to a claim that wouldn't normally be paid under the policy or led Admiral to pay more than Ms M would have been entitled to. In other words, I'm looking at whether by providing incorrect or inconsistent information, Admiral could fairly conclude that Ms M was trying to get more than she should have got.

In this case, Ms M's family member was convicted of aggravated vehicle taking – or aggravated TWOC. I understand that means a criminal court was satisfied beyond any reasonable doubt that Ms M's vehicle was taken without her consent.

Admiral did not dispute that Ms M's family member had been convicted of taking her vehicle without consent. Instead, it relied on what it said were inconsistencies in Ms M's account of the theft to decline her claim. But even if I were to find there were inconsistencies in the information Ms M provided to Admiral, the fact remains that Ms M's family member was convicted of taking the vehicle without her consent. I can't reasonably say the potential inconsistencies Admiral identified undermine that or Ms M's claim that her vehicle was stolen. It follows that I can't reasonably say it was fair for Admiral to conclude Ms M was trying to get more than she was entitled to.

On that basis, I can't say that it was fair for Admiral to rely on fraud to decline Ms M's claim. It follows then that Admiral cannot recover from Ms M its costs in relation to storage, recovery, investigation or the third-party claim. In my view, the fair way to resolve this complaint is for Admiral to settle Ms M's claim in line with the terms and conditions and add simple interest to the settlement for the time she has been without the money. As our investigator said, it will also need to remove any fraud or avoidance markers from any internal or external database, and to provide a letter of explanation so Ms M can approach her new insurer to check she is paying the correct premium.

Our investigator said that she thought Admiral should pay £350 to Ms M to compensate her for the way it had handled the claim. I can see our investigator had said that Admiral declined the claim before it had received the full police report. She said that being accused of fraud was a very serious matter and had caused Ms M stress, anxiety and a lack of sleep. I agree with our investigator that £350 is fair compensation to put things right in that regard.

Putting things right

I require Admiral to:

- Settle Ms M's claim in line with the terms and conditions of her policy.
- Pay simple interest* on the settlement from the date of Ms M's claim until the date she gets that money back. The rate of interest is 8% a year.
- Cease chasing Ms M for reimbursement of its outlay.
- Remove any fraud or avoidance markers from all internal and external databases and provide a letter of explanation setting out the correct settlement details.
- Pay £350 to Ms M to compensate her for the issues identified above.

* If Admiral considers that it is required by HM Revenue & Customs to deduct income tax from that interest, it should tell Ms M how much it has taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold this complaint and require Admiral Insurance (Gibraltar) Limited to put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 12 February 2024.

Nicola Bowes
Ombudsman