

The complaint

Committee members of a club I'll refer to as "C1" complain on its behalf about Hiscox Insurance Company Limited's decision to decline a claim under a club's insurance policy.

What happened

C1 is a club that is run privately for the benefit of its members. Each year it holds a vehicle show open to the public. It sets £1,000 aside for these shows to cover change at the public entrances.

In June 2022, a committee member visited a bank, withdrew £1,000 belonging to C1, and put it in the boot of their vehicle. They entered a shop and returned to find the £1,000 was missing, and their keys left on a front tyre.

C1 raised a theft claim to Hiscox. Hiscox declined it and referred to the policy terms. It said, broadly, the policy doesn't respond to damage to portable equipment or money away from the business premises unless it is in C1's care, custody, or control, or secured in a locked room. It also referred to a care, custody, and control policy endorsement.

Hiscox say money belonging to C1 was stored in the boot of an unattended vehicle when the loss occurred. Therefore, the money wasn't under the care, custody, or control, of C1.

C1 didn't agree with Hiscox's decision. It pointed out that another section of the policy stated theft from an unattended vehicle wasn't covered unless the item was out of sight in a locked boot or storage compartment. It therefore thought the claim should be met in full. Hiscox maintained its decision, and so C1 asked our Service for an impartial review.

The Investigator recommended the complaint be upheld in part. She initially thought Hiscox should meet the claim in full because she wasn't satisfied the policy terms were clear on how it would respond in C1's specific circumstances. However, she reviewed the policy schedule and recommended Hiscox settle the claim up to the policy limit for money which was £200.

Hiscox agreed, but C1 didn't. It said, broadly, that the £200 limit for money in the schedule referred to money in the insured premises. And its claim concerned money stolen away from the premises. It said money has its own section in the policy and no limit is said to apply, so Hiscox should meet the claim in full.

As no resolution could be reached, the case was passed to me to decide.

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.

All parties accept C1 suffered a loss as a result of the circumstances it described. The dispute here though is how Hiscox should indemnify C1 under the policy. So, my starting point here are the policy terms – namely, the 'Property – portable equipment' section the claim was considered under.

Hiscox told C1 in its January 2023 final response letter that cash falls under the definition of money, under the portable equipment section of the policy. Under this section, 'money' and 'portable equipment' have separate definitions.

The policy goes on to say what's covered. For money, it says:

'3. Damage occurring during the period of insurance to money held in connection with the business within the United Kingdom of Great Britain and Northern Ireland, including while in transit.'

The policy also says what isn't covered. It says Hiscox will not make any payment for damage caused by:

...b. theft or attempted theft from an unattended vehicle unless the item is out of sight in a locked boot or locked storage compartment'

So, C1 were covered for loss or damage to money belonging to it while in transit. And a theft or attempted theft claim wouldn't succeed unless the item stolen was out of sight in a locked boot or locked storage compartment. That's what happened here.

Hiscox declined the claim however as the policy goes on to say it won't make a payment for:

'2. Damage to portable equipment or money away from the business premises unless the portable equipment or money is in your care, custody, or control at all times or otherwise secured in a locked hotel room or safe, or other similar securely locked room or premises.'

I don't think that's reasonable. I say this because the policy would respond in circumstances where a theft occurs from an unattended vehicle where money was kept out of sight in a locked boot or locked storage compartment. That's what happened here. So, to say C1's committee member failed to demonstrate they kept the money belonging to C1 in their care, custody, and control at all times by locking the money in their boot is unreasonable.

Therefore, I'm not satisfied Hiscox applied the policy terms fairly here when declining C1's claim.

Things have progressed since then. Hiscox agreed to cover the claim up to the £200 policy limit for money as shown within the schedule. But I don't think it's made this very clear. I say this because the additional money cover stated in the schedule says:

'Additional cover (in addition to the overall limit/amount insured above)

Money – in the business premises while open for business or in a locked safe'

I acknowledge this, in isolation, could suggest a £200 limit would only apply to claims involving loss or damage to money if the claim-incident occurred in the business premises while open for business or in a locked safe. That didn't happen here – money was stolen from the boot of an unattended vehicle away from the premises. And so, I acknowledge why C1 do not consider the £200 to apply to the claim.

But looking at things objectively here, on balance, I find it's fair and reasonable for Hiscox to apply the £200 policy limit for money in this case.

I say this because Hiscox have also provided a copy of the summary of cover document provided by C1's broker. This document contains the various sections of the policy –

including 'All risks cover (club property)' which has a £1,000 policy limit, and 'Money cover' which has a limit of £200.

Money has its own definition within the policy. And this is separate to the definition of what's considered to be portable equipment. And so, I'm not satisfied I could fairly require Hiscox to cover C1's claim up to the policy limit for portable equipment – because the claim involves a loss of money.

I also acknowledge C1's comments regarding the fraud and dishonesty part of the policy. It says, broadly, that its claim could be considered here given it related to theft. And the policy limit is £5,000. But I'm not persuaded that's fair. I say this because it's my opinion the intention of this section of the policy is designed to respond to fraud or dishonesty from a partner, director, or an employee. And not the theft of money from the locked boot of a vehicle.

Putting things right

For the reasons I've mentioned above, I'm not satisfied Hiscox declined C1's claim fairly and reasonably. It therefore must now settle C1's claim up to the policy limit for money, and include 8% simple interest* on this payment, from four weeks from the date of the claim to the date of settlement.

My final decision

For the reasons I've mentioned above, my final decision is I uphold the complaint. I now require Hiscox Insurance company Limited to settle C1's complaint in line with my instructions above.

*If Hiscox Insurance Company Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell C1 how much it's taken off. It should also give C1 a tax deduction certificate if it asks for one, so it can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask C1 to accept or reject my decision before 12 March 2024.

Liam Hickey
Ombudsman