

The complaint

Miss C has complained about her car insurer One Insurance Limited because it declined her claim for theft of her car. Her car was recovered, there were some costs for recovery and storage, and she completed some minor repairs.

What happened

Miss C was at home one evening with her front door unlocked – she was expecting her daughter to come home. She went to bed and later messaged her daughter to ask where she was. Miss C's daughter replied to say she was staying out and Miss C went back to sleep. The next day she got up to put her bin out, saw the car was gone and found the key missing from the hallway. She made a claim to One Insurance.

The claim was made on 30 May 2023. Miss C was asked to present her V5 certificate and the spare key, which she did. On 4 July 2023 Miss C updated One Insurance that the police had found her car. One Insurance said it would collect the car from the police and assess it for damage – that recovery and storage would be covered under the claim. In August 2023 One Insurance told Miss C that it was declining the claim because, by not locking her front door, she hadn't taken reasonable precautions to protect her car as the policy required. One Insurance told Miss C that she'd be responsible for storage until her car was collected – Miss C pointed out to it that it had the key. One Insurance didn't think it did have the key – but then found it on a desk. Miss C took her car back on 14 September 2023, since getting it repaired and valeted (necessary Miss C says due to the thieves leaving drug paraphernalia in the car). One Insurance asked her to repay its recovery and storage costs.

Miss C was unhappy with One Insurance. She felt it was unfair for it to decline the claim because her policy doesn't say when her front door should be locked. She said she simply hadn't thought about the door when her daughter messaged to say she was staying out. One Insurance felt it had made a fair decision based on Miss C not having taken reasonable precautions to protect her car. Miss C complained to the Financial Ombudsman Service.

Our Investigator felt that locking a front door would be reasonable. So she didn't uphold the complaint. Miss C asked for an Ombudsman's consideration and the complaint was referred to me. I felt minded to uphold it. So I issued a provisional decision to share my views with both parties. My provisional findings were:

"Reasonable precautions/steps"

I don't disagree that many people would want to keep their front door locked. Many people would find that a general, 'reasonable precaution' to take against theft. But the courts have set down an approach for this type of situation which this service has long since adopted.

For an insurer to rely on such a term it must show that the policyholder was, effectively, acting recklessly – that they were courting a risk. There are two stages to establish this. The first – that the policyholder must have recognised a risk. The second – that, having recognised a risk, they didn't take appropriate steps to avert it.

I don't think One Insurance has met the first stage of the test. I've simply seen nothing from One Insurance establishing that Miss C recognised a risk. Which means One Insurance has not shown that Miss C acted recklessly and it can't fairly and reasonably rely on the reasonable precaution term to decline the claim.

I'm, therefore, going to require One Insurance to accept the claim – meaning it is liable for the recovery and storage charges and won't be able to chase Miss C for repayment of them any further. It will also have to consider, in line with the policy's terms and conditions, Miss C's repair costs and her claim for personal belongings taken from the car. Although if the policy usually allows it to settle repair costs based on what it would have paid, it won't be able to rely on that term in this instance because its unfair actions caused Miss C to have to fix the car herself. I'll likely award interest too.

Claim handling

One Insurance knew of the circumstances of the theft from the outset. So I'm not sure why it took until August to decline the claim, in the meantime collecting and storing Miss C's car. It also mishandled her key, such that it didn't return it to her until September, delaying her in collecting the car. Further, as I've noted above, its claim decision was unfair.

But for those failures, I think Miss C would have had her car back with her in the beginning of July 2023. Meaning that Miss C was without her car for about two and a half months longer than she should have been. She also had to arrange its repair herself and was asked to repay One Insurance's recovery and storage fees.

Overall, I think One Insurance has caused Miss C a fair amount of distress and inconvenience over a period of a couple of months. I think it should pay her £500 compensation.

The cost of being without a car

I've noted above that One Insurance's failures caused Miss C to be without her car for around two and a half months. I've accounted for the inconvenience of that in my compensation award above. But she also shouldn't be left out of pocket due to One Insurance's failures.

*That said I currently haven't seen that Miss C incurred any extra costs because she was without her car. She may have had different costs – such as the cost of using public transport rather than fuel. But it is extra costs I'd likely be minded to make One Insurance reimburse her for. If Miss C wants to put any extra costs forward for consideration by me, **she should do that within one week of the date of this provisional decision** (with the general deadline for replies being two-weeks)."*

Miss C said she was satisfied with the outcome. But she wanted to point out that there were still some claim items for the car outstanding. She said that when she hadn't had her car, in order to stay mobile, she'd paid £60 to add herself to her parent's insurance. She'd also later paid to change her private plate to a new car she purchased.

At my direction our Investigator sent proof of Miss C's outlay to One Insurance. She advised that if my decision on the complaint stayed the same, it was likely I'd award reimbursement of the £60, plus interest.

One Insurance said that my provisional findings equated to a "drastic" change in outcome which it did not agree with. It said that even the courts would find locking all doors at night a reasonable precaution to prevent loss. It noted that most home insurance policies exclude

loss where entry is gained without force and violence. It contended that a “layman should recognise the risk of leaving a property unlocked”. One Insurance said it thinks there can be little argument that someone leaving a property unlocked is courting a risk. It said Miss C particularly should have recognised a risk because an internet search shows that the area in which she lives has a high crime rate.

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 considered One Insurance’s points made in reply. But I think it has somewhat missed the thrust of my provisional findings. The question is not whether someone else would have seen a risk, or whether Miss C should have seen a risk but didn’t. Nothing it has said speaks to the point I made provisionally – that it has not shown that Miss C recognised a risk. It hasn’t persuaded me to change my view on the outcome of this complaint.

Miss C chose to transfer her private plate to a new car, at a cost. I don’t think that was a cost necessarily born out of One Insurance’s failure. So I’m not going to make One insurance reimburse that cost.

As I was already instructing One Insurance to consider Miss C’s losses, that direction reasonably also applies to any repairs or losses not yet resolved by Miss C. I note that One Insurance did not respond regarding the suggested additional award of £60 plus interest. I’m satisfied that Miss C needed to keep mobile and that paying a small sum to be added to her parents’ insurance, allowing her to drive their car, was a reasonable way of doing that. I’m also satisfied, therefore, that One Insurance should reimburse that sum, plus interest from the date Miss C was added to the policy, 4 June 2023, until payment is made.

Having reviewed the complaint, what I said provisionally and the parties’ responses, my view hasn’t changed. As such my provisional findings, along with my comments here, are now the findings of this, my final decision.

Putting things right

I require One Insurance to:

- Accept the claim and withdraw its request for Miss C to refund its recovery and storage charges.
- Consider Miss C’s repair costs paid[^] and those for work yet to be completed, and the part of the claim for lost personal belongings^{^^}, in line with the remaining terms and conditions of the policy, and my comment above.
- To any cash settlement, add interest*.
- Pay Miss C £60 as reimbursement of additional insurance costs, plus interest* from 4 June 2023 until payment is made.
- Pay Miss C £500 compensation.

*Interest is at a rate of 8% simple per year and paid on the cash settlement amounts One Insurance pays. Interest is to be applied on [^] from the date Miss C paid any invoices settlement is based upon and on ^{^^} from the date of loss. In both cases, that interest is to be applied until One Insurance pays any settlements due to Miss C. HM Revenue & Customs

may require One Insurance to take off tax from this interest. If asked, it must give Miss C a certificate showing how much tax it's taken off.

My final decision

I uphold this complaint. I require One Insurance Limited to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 17 April 2024.

Fiona Robinson
Ombudsman