

The complaint

Ms K complains that Liverpool Victoria Insurance Company Limited (“LV”) unfairly declined her motor insurance claim and accused her of fraud.

What happened

In March 2023, Ms K made a claim under her motor insurance policy with LV after her car was stolen.

LV asked Ms K how many keys came with the vehicle, and she said there was only one. After Ms K provided the key, LV arranged for it to be forensically tested. The test indicated that the last time the key had been used was in January 2023.

Ms K’s car was recovered by police in April 2023, with a key. LV arranged for the second key to be forensically tested and it was confirmed as being a correctly coded key that had last been used on the day the vehicle was found. LV’s engineer determined that the car found with the vehicle was the main key and the one Ms K had provided was the spare key. The engineer also found that there was no sign of forced entry, the doors and steering lock of the car were intact and there was no evidence of it being hot-wired.

LV said it believed Ms K had acted dishonestly and had attempted to make a false claim by misrepresenting the circumstances of loss around the keys. It said it was passing her details to fraud prevention agencies and was declining her claim. It said Ms K also needed to reimburse LV the costs it had paid out for the recovery of the vehicle and storage fees.

Ms K disputed that her claim was fraudulent and raised a complaint. LV didn’t provide an answer to Ms K’s complaint within the appropriate timescale, so she referred it to our service.

Our investigator didn’t think Ms K’s complaint should be upheld. He thought it was reasonable for LV to invoke the policy’s fraud condition and decline her claim.

Ms K disagreed with our investigator’s outcome. She said LV would never allow her the opportunity to explain what had happened. The police had informed her the suspect of the theft had been caught and was going to court. She questioned why she was being punished for something that was a genuine theft.

Ms K provided information to show that she had tried to obtain the police report, but it couldn’t be provided because the case against the suspected thief was still ongoing. She didn’t feel LV had made sufficient enquiries with the police despite her asking it to. She didn’t think her case had been fairly assessed, given the lack of information.

Ms K said she’d had to pay storage fees which she believed LV should have covered. She also commented that her mental and physical health had been impacted by what had happened.

As Ms K disagrees with our investigator's outcome, her complaint has been 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.

Having done so, I've decided not to uphold Ms K's complaint. I'll explain why.

In declining Ms K's claim, LV has referred to the following policy condition:

"Claims fraud

If you or anyone representing you gives us misleading or incorrect information when making a claim or part of any claim that is fraudulent, false or exaggerated, you will lose all benefits under the policy from the date of the fraudulent claim(s). We will cancel the policy and retain all premium you've paid for this policy. We may also:

- *reject the claim or reduce the amount of payment we make;*
- *cancel all other policies you have with us and retain all premiums you've paid;*
- *get back from you any costs you've caused us to pay; and*
- *pass details to fraud prevention and law enforcement agencies whose members may access and use this information. Other insurers may also see this information."*

It's important to explain, it isn't for me to decide whether Ms K has acted fraudulently. Instead, I've needed to consider if LV's decision to invoke the above condition is reasonable.

I appreciate Ms K believes that LV should have sought additional information from the police regarding their investigation of the theft and the prosecution of the suspected thief. However, I don't think LV is disputing that the theft of the vehicle was genuine. LV says it's declined Ms K's claim on the basis that what she reported to it was not a true and accurate version of events.

LV says that when Ms K made her claim, she said she had last used the car on the day it was stolen, and she had discovered it was missing fifteen minutes after she'd last seen it. When LV asked her how many keys came with the vehicle when it was purchased, Ms K put LV's claims handler on hold while she spoke to her brother and then confirmed she only had one.

LV has provided forensic reports from the examination of both keys. These show that the key Ms K sent to LV was last used in January 2023 and had been used infrequently prior to that. The forensic engineer concluded that the second key (found with the vehicle) was the *"original primary key, coded and functional with evidence of regular use."*

The reports also show the mileage of the vehicle had increased by about 3,000 miles since the key Ms K provided had last been used.

The forensic engineer also commented that Ms K's vehicle was not susceptible to theft using the relay method and the keys could not be cloned and were not vulnerable to a code grabber.

Another engineer who inspected the car said:

“Physical inspection of the vehicle found no evidence of forced entry, door locks and steering lock were found to be intact with no evidence of damage to the surrounding area or wiring loom.”

The engineer’s report also said:

“Interrogation of the immobiliser system confirmed only 2 keys are programmed to the immobiliser with no evidence of additional keys being programmed.”

It would appear from the above, that the main car key was used to steal the vehicle and the key Ms K provided to LV was the spare key. So, I think it was reasonable for LV to have concluded that Ms K hadn’t provided a true and accurate version of events when she said the vehicle only had one key.

The policy excludes cover for loss or damage to a car by *“theft or attempted theft if:*

- *your car has been left unlocked or with a window or roof open*
- *the engine has been left running when unattended..*
- *the ignition device is left in, on or attached to your car or left in the immediate proximity of the car or in range of where the ignition device is effective.”*

So, I think it’s likely that LV would have declined Ms K’s claim if she’d given accurate information about the keys.

Ms K has acknowledged that she told LV there was only one key for the vehicle when she first made her claim in March 2023. However, in September 2023 (around six weeks after her claim was declined), Ms K sent LV an email which said:

“The vehicle was purchased by my brother, I was only provided with one key. At the time of purchase, I was provided with one key, I had no reason to believe there were two keys for this vehicle. Having now spoke to my brother following this email he has clarified the position that there were two keys.

I have not deliberately provided misleading or inaccurate information as there was only one key. There is no element of dishonesty as I compliantly provided the key as soon as it was requested by yourselves.”

Ms K told us that she hadn’t known there were two keys because her brother purchased the car, and she was only given one and it was the only one ever used. She said it only came to her attention that there were two keys when LV mentioned this, and her brother confirmed there were two keys.

Ms K said that when LV decided not to pay her claim, her brother mentioned he dropped the keys to the car and replaced them with the spare key. She said he did not want to worry her about it, and this came to her attention later. He didn’t know where they fell so this must have been somewhere within the area for the thief to have taken the car.

LV’s forensic report doesn’t support what Ms K has said about only one key ever being used. It shows the spare key was occasionally used, most recently less than two months before the car was stolen. So, I think it’s unlikely that Ms K wouldn’t have known of the existence of the second key. Ms K also seems to be suggesting that her brother deliberately gave her inaccurate information to pass on to LV. I don’t find Ms K’s explanation plausible or persuasive.

I appreciate it was upsetting for Ms K to have her claim declined and to be accused of fraud. I understand that this has impacted her financially and I'm sorry to hear about the effect it's had on her health. However, having reviewed the information provided in this case, I'm satisfied LV conducted a fair and reasonable review of the claim and didn't act unreasonably in saying the fraud condition was breached – in light of the evidence it received.

My final decision

For the reasons I've explained, I don't uphold Ms K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 9 July 2024.

Anne Muscroft
Ombudsman