

The complaint

Miss M has complained about her motorhome insurer Aviva Insurance Limited because it declined her claim when her motorhome, her primary vehicle, was stolen.

What happened

Miss M has a policy with Aviva for her motorhome. The policy's statement of fact says the motorhome is usually kept at Miss M's home address and that overnight it is parked on the drive. In December 2022, due to workmen in the area and poor weather, Miss M had to leave the motorhome a few streets away from her house.

On 17 December 2022 Miss M parked the motorhome and went to her house. She later told Aviva's investigator's that may have been between 2pm and 3pm. She returned to the motorhome on 19 December 2022, she says between 2.30pm and 3pm. Which is when she noticed the motorhome had been stolen. Aviva, noting the motorhome had not been at her home when it was stolen, declined the claim.

In two letters Aviva referred Miss M to exclusion 13 of the policy; "cover in respect of fire, theft or vandalism whilst your motor caravan is stored on the road or at a non-approved storage location". It said based on that exclusion, given where Miss M's motorhome had been parked, it was correct for it to decline the claim. Miss M didn't think that was fair so she complained to the Financial Ombudsman Service.

Our investigator, bearing in mind that it was accepted that Miss M had parked the motorhome away from her home, felt Aviva's claim decision was fair and reasonable. But he felt Aviva had caused some delay whilst considering the claim. So he said it should pay Miss M £100 compensation.

Aviva agreed. For a time Miss M pursued a complaint with the broker which had sold her the policy. But she remained unhappy about Aviva's claim decision. The complaint about Aviva was then referred to me for an Ombudsman's consideration.

Having reviewed the complaint, I was minded to uphold it. So I issued a provisional decision explaining my views. My provisional findings were:

"Aviva's position"

I note that Aviva has sought to rely on a policy exclusion to decline this claim. It does seem as though Miss M did not park her motorhome on her drive, as she had told Aviva she would when the policy was arranged. But Aviva has not sought to argue that Miss M misrepresented the situation at that time, and that it would have done something differently if it had been given the correct detail.

Aviva's position is that Miss M's motorhome was parked on the street away from her home and this was not an approved location. It has then sought to rely on a policy exclusion to decline the claim. By seeking to rely on an exclusion to decline the claim Aviva has affirmed

the policy. Which means it cannot now look to raise any misrepresentation argument, including in respect of settling the claim.

The exclusion quoted, in at least three letters by Aviva is:

“13. cover in respect of fire, theft or vandalism whilst your motor caravan is stored on the road or at a non-approved storage location”.

I see Aviva feels justified in using that exclusion – that the fact of where the motorhome was stolen from speaks for itself in terms of proving it can fairly and reasonably rely on this exclusion. And if this were an exclusion in Miss M’s policy I might, on the face of it, have some sympathy with its position. But this exclusion does not appear anywhere I can see in either of the versions of the policy wording which Aviva says applied.

What the policy says

Most recently Aviva sent us a policy booklet dated March 2018. But previously it sent us one dated February 2022. With the loss occurring in December 2022, I’m satisfied that February 2022 is the wording which applied at the point of the theft. Exclusion 13 in the 2018 wording is the same as exclusion 11 in the applicable 2022 version. It is very different to the wording Aviva relied upon to decline the claim.

Exclusion 11: “loss or damage covered under section 1 if your motorhome is stored for a period in excess of [sic] 48 hours anywhere other than the storage location disclosed to us in your statement of fact”.

This exclusion is reflected in the important policy information document (IPID) which Miss M has acknowledged receiving when the policy was arranged. Aviva also referred to the IPID detail in one of its repudiation letters stating that Miss M had a duty to inform it of a change of storage location for the motorhome if it is left for more than 48 hours at a different location.

I know Miss M has said that she did not receive the statement of fact. The statement of fact asks if the motorhome is usually kept at Miss M’s home and where is it normally kept overnight.

The policy is unclear

In my view, the policy is unclear. The policy wording specifically draws the reader’s attention to “the storage location” within the statement of fact, and that being where the vehicle is kept when “not in use”. But, having reviewed the statement of fact – there is no detail therein that is specifically labelled or referred to as the vehicle’s “storage location”, also not present is the phrase “not in use”.

A particularly cautious reader might infer the questions about where the motorhome is usually and normally kept as being the ‘storage location’ applicable when the vehicle is ‘not in use’. But I could also see a reasonable person discounting those questions as relating to the storage location as “storage” could be taken to meaning where you put something when it is not ‘in use’ for a significant period. I wouldn’t think, for example, of my car, parked on the drive overnight, as being “in storage”, or even particularly that, generally speaking, it is ‘not in use’, only that it is not being driven at that time. In any event, the fact that inferences have to be made and that words, effectively, have to be added to understand what Aviva meant to say, means the policy is unclear.

Aviva will be aware that this Service has an established approach to situations where the policy is unclear. That is the policy is interpreted in favour of the party which did not write the policy – Miss M. In this case I think that reasonably means that Aviva can’t rely on the

exclusion to cover to decline the claim. I say that because Aviva hasn't shown what the "storage location" was and, therefore, hasn't shown the claim reasonably fails on the basis of exclusion 11. Similarly it hasn't shown that Miss M breached any duty to tell to of a 'change' of storage location.

48 hours

I add this section here in case Aviva, in reply to this provisional decision, seeks to persuade me that the policy is clear and that it should fairly be allowed to rely on an exclusion to decline the claim because of where the motorhome was parked when it was stolen. To be clear, Aviva did not rely on the 48 hour exclusion when declining the claim. But even if I afford it some benefit of doubt – that it meant to use this exclusion but mistakenly quoted exclusion 13 from some other policy instead, I think there is still a problem for Aviva.

Exclusion 11 (13 on the 2018 policy), unlike the original wording Aviva sought to apply to this claim, includes a time limit. The motorhome has to have been "stored" for in excess of 48 hours.

At this time, and setting the issue of the definition of "stored" aside, Aviva has not shown that the motorhome was left by Miss M, somewhere other than her home, in excess of 48 hours. With my attention drawn particularly to the wording "in excess". So not up to 48 hours, not 48 hours exactly – more than 48 hours.

Miss M's testimony, which as far as I can see, Aviva has not sought to tie down any more specifically or disprove, is that she used the motorhome on 17 December. The motorhome was next left by Miss M, parked away from her home, that afternoon at between 2 and 3 pm. Miss M has said she returned to the motorhome between 2.30 and 3pm on the 19 December. So, looking at the exclusion Aviva may want to apply – the motorhome was 'left' between 17 and 19 December, for a period of 47.5 – 49 hours. I'm not persuaded that it's fair to conclude its most likely the period set out in the exclusion was breached. It might have been – but it is up to Aviva to justify its reliance on a policy exclusion to decline the claim. In my view it hasn't done that here."

Response to my Provisional Decision

Miss M said she was happy with the outcome. Aviva said it disagreed with it.

Aviva said the policy required Miss M to call it if there was a change in the storage location disclosed to it. So, Miss M, it said, would only have needed to call it to advise of the change of storage location – but she didn't. So it didn't feel it should be liable for the claim.

Regarding the exclusion itself Aviva said it had provided the policy wording with the correct exclusion in it. It said the correct wording, containing that exclusion, would always have been sent to Miss M.

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 I said provisionally, the policy documents do not clearly set out a "storage location". But, looking at what Aviva said in reply – that all Miss M needed to have done was to call it (to say where she was parking the motorhome) – that doesn't suggest that any failure to call

was material. Which, clarity of documents aside, means it wouldn't be fair or reasonable for Aviva to rely on that failure to decline the claim.

I explained provisionally about the policy booklets Aviva had provided and what I'd found they contained, as against the exclusion wording it was seeking to rely upon. I've reviewed them again and they do not contain that specific wording.

I also referenced the IPID in my provisional findings. Similar to the wording of exclusion 11 in the 2022 policy booklet, the IPID uses phrases such as "motorhome" and "48 hours". Quite contrasting to the wording of the exclusion Aviva sought to rely on. I can't see why the IPID would reference an exclusion that was not present in the policy – or why the exclusion Aviva sought to rely on, written so differently, would be there instead. That's because the IPID would usually present an accurate summary of the actual policy content.

It is up to Aviva, if it wants to decline a claim, to do so fairly and reasonably. That includes being clear about its basis for declining the claim and being able to support that in evidence. In my view, Aviva has not done that here.

Having considered Aviva's reply, it hasn't changed my view on the complaint. As such my provisional findings are now those of this my final decision.

Putting things right

I'm satisfied that Aviva got this wrong. I'm satisfied that it acted unfairly and unreasonably when it declined the claim, not only on the basis of incorrect policy wording, but in the back-drop of an unclear policy and where it didn't evidence that the claim fell foul of the actual wording of the correct policy exclusion. Aviva has shown no other bars to the claim succeeding. I also know that this has been a worrying time for Miss M, not least because the motorhome was financed in part by a loan which she has had to continue to pay. I know she kept mobile by buying a cheap car. So I require Aviva to:

- Settle the claim in line with the remaining policy terms and conditions, with interest* being applied to any settlement paid to Miss M, from the date of loss until settlement is made.
- Reimburse the interest part of any payment Miss M has made to the finance company after 28 February 2023 – a few weeks after Aviva completed its investigation report, a reasonable period, I think, for it to have then settled the claim. With interest* added on each reimbursed sum from the date of Miss M's relevant payment until settlement is made – this because she has been out of pocket for these sums.
- Pay Miss M £500 compensation for the distress and inconvenience this caused her – including that related to finding, using and insuring the cheap car.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs may require Aviva to take off tax from this interest. If asked, it must give Miss M a certificate showing how much tax it's taken off.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 27 June 2024.

Fiona Robinson
Ombudsman