

## The complaint

A limited company, which I will refer to as G, complains about the handling of and decision on its commercial motor insurance claim by Arch Insurance (UK) Limited.

## What happened

The following is intended only as a brief summary of events. Additionally, whilst a number of parties have been involved in the correspondence, I have largely just referred to submissions as being those of G and Arch. G is currently in the process of liquidation, and the liquidator has consented to the complaint.

G held a commercial motor trade insurance policy, underwritten as far as is relevant by Arch. The policy schedule described G's business as being body repairs for cars and light commercial vehicles. The policy provided cover for a number of areas of risk, including Road Risks. This section provided, in part, cover for damage to property resulting from any accident whilst an authorised person was driving or using an insured vehicle.

The policy contained a number of relevant definitions, including for "Insured Vehicle". Essentially this was a vehicle that was the property of G or was in G's custody or control in connection with the business described in the policy schedule. This definition did include an exclusion relating to vehicles privately owned by G, its director or employees, or a relative – unless the vehicle was in G's custody or control for sale or maintenance purposes.

The policy provided cover in relation to a number of authorised persons. For social and domestic purposes this included G's director and Miss D. For Motor Trade purposes, this included any person in G's employment under a contract of service. The schedule did include an endorsement restricting cover in relation to Miss D to a specific vehicle. This vehicle looks to be a lorry; although the personalised number plate referred to and the broker's understanding that the vehicle with this number plate was a car, indicates reference to the lorry may be in error.

In July 2023, Miss D was involved in an accident. It does not appear that G, its director or Miss G contacted Arch about this for over a month. However, it then seems that Arch itself did not then move the claim process along for a further month and half. At this point, Arch had a number of queries around the ownership of the vehicle, as well as some concerns over information G had provided when the policy was incepted. Ultimately, Arch declined the claim on the basis that the vehicle involved in the accident was registered in the name of a separate limited company, which I'll refer to as C. The director of G is also the director of C.

G complained about this decision and the handling of the claim. Arch responded, saying the investigations were reasonable and proportionate, and so was the time taken. It referred to information G had not disclosed when the policy was incepted. And also said that there was a lack of insurable interest in the vehicle Miss D was driving, referring to there being limited evidence G had paid to purchase the vehicle.

G remained unsatisfied with this and brought its complaint to the Ombudsman Service. However, our Investigator did not recommend the complaint be upheld. He thought that, as

the V5C indicated that G was not the owner of the vehicle, it was reasonable that Arch required further evidence to confirm G's insurable interest in the car. And that, as G had not been able to provide a bank statement demonstrating it had paid for the vehicle, he thought it was reasonable for Arch to conclude that the vehicle was not G's property.

Our Investigator also thought that it was not clear that Miss D was an employee of G, nor that G had been able to persuasively support its position that the vehicle was being driven for the purpose of selling it. Further, the Investigator said that even if this was the reason the vehicle was being driven, he did not consider this to be an activity of "body repairs for cars and light vehicles".

The Investigator considered the timeline of the claim and concluded that, although G had been responsible for some of the time taken to reach an outcome, Arch had caused an avoidable delay of potentially around a month. So, he recommended Arch pay G £100 compensation to reflect the inconvenience caused.

Arch accepted this outcome, but G did not. As a result, the complaint has been passed to me for a 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.

Having done so I have come to the same outcome as our Investigator. I'll explain why.

The first issue I have considered is whether Arch acted fairly and reasonably in declining G's claim.

There are a number of ways in which damage resulting from an accident might be covered under the policy. Essentially though, these can be summarised as being where the vehicle involved is the property of G or where it is in the custody/control of G for the purposes of its business, provided that the vehicle is being driven by an authorised person.

Arch primarily declined the claim on the basis that it was not satisfied that the vehicle involved was the property of G. The V5C document lists C as being the registered keeper of the vehicle. Whilst G was able to provide an invoice relating to the purchase of the vehicle, it was unable to provide a bank statement confirming that it had actually made the purchase. Given these points, I consider Arch was entitled to consider that the vehicle was not the property of G. It was not the registered keeper and had not been able to evidence any payment of the purchase.

G has since confirmed that the payment was not made from a bank account belonging to G, albeit it has not confirmed who did make this payment. However, this reinforces the position that G is not the owner of the vehicle. Ultimately, no evidence has been provided that G paid for or owns this vehicle.

The second potential area of cover requires that the vehicle is in the custody or control of G for the purposes of its business. I note that initially G said that its director was driving the vehicle at the time of the accident. However, it does not appear to be disputed that it was in fact being driven by Miss D.

As mentioned, the policy schedule does limit cover in relation to Miss D to a specific vehicle. It would seem that the vehicle mentioned on the schedule is an error. However, it also seems likely that the intention was to restrict cover relating to Miss D to a specific vehicle.

The broker that arranged the policy apparently understood this to be a Mini One. It appears that, subsequent to the policy being taken out, the vehicle involved in the accident was registered to C and the personalised number plate was removed from the Mini One and placed on this new vehicle. It does not appear Arch was made aware of any of these changes.

I have not considered this aspect in detail, as Arch has not relied upon this to decline the claim. However, it may be that the lack of notification to Arch about these points, and the endorsement on the policy relating to Miss D, means that there is not cover in relation to Miss D driving the vehicle in question, regardless of its ownership or use.

The policy does provide cover where a vehicle belonging to another is being driven by an employee of G, if the vehicle is in G's custody or control in connection with G's business. This would include a vehicle that is owned by either G's director or Miss D, as long as that vehicle is in G's custody for the purpose of its sale or maintenance.

There is some question over whether Miss D, who was driving the vehicle, is an employee of G as required by the policy. However, working on the basis that she is an employee of G – and that the endorsement referred to above does not apply to the circumstances – the vehicle would need to have been in G's control or custody for the purpose of its business. G's business is set out in the policy documents as being "body repairs", and it is only when a third party vehicle is held by G for the purpose of its business that the policy provides cover.

G has not provided any indication that the vehicle was in its custody or control for the purposes of body repairs. Essentially, it has said that the vehicle was being sold and was being driven to the intended purchaser. Even if I was persuaded that the sale of vehicles is part of the business G is insured for, I would expect there to be some evidence to demonstrate that the reason for G having control or custody of the vehicle was to sell it. G has said that there were adverts referring to this, but has not provided copies of these. And has provided no other evidence to confirm that the vehicle was in the process of being sold.

Without persuasive evidence that the vehicle was in G's control for the purpose of its business, I consider Arch acted appropriately when concluding the second area of potential cover does not apply in the circumstances.

G has referred to the certificate of insurance relating to the policy including slightly different wording relating to how when cover applies. However, it is necessary to consider all of the policy documents together. And, when doing so, I consider that the requirements of the policy are clear.

As I consider Arch acted appropriately when concluding the policy does not respond in the circumstances of the claim, it follows that I am unable to fairly and reasonably ask Arch to do anything more in relation to this aspect of the complaint.

Having considered the timeline of the claim, I do consider that the enquiries Arch carried out were reasonable in the circumstances. However, I agree that there were times when it could have acted quicker than it did. And this caused G some inconvenience.

### **Putting things right**

Arch Insurance (UK) Limited should pay G £100 compensation for the inconvenience caused by its claims handling, if it has not already done so.

**My final decision**

My final decision is that I uphold this complaint in part. Arch Insurance (UK) Limited should put things right as set out above.

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

Sam Thomas  
**Ombudsman**