

The complaint

Mrs & Mr H complain that The National Farmers' Union Mutual Insurance Society Limited ("NFUM") declined a claim for the theft of a car under their motor insurance policy.

Mrs & Mr H are represented in this case, but for ease I'll refer to them throughout.

What happened

Mrs & Mr H had a motor insurance policy with NFUM covering their car. The car was a high value vehicle.

The policy renewed in November 2022.

In March 2023 the car was stolen, and they reported this to NFUM.

NFUM declined the claim because the tracking device fitted to the car wasn't working, and Mrs & Mr H didn't have an active tracking subscription. Their policy had an endorsement stating that the car had to have a working tracking device plus subscription.

Mrs & Mr H complained to NFUM but it declined to cover their claim.

As they remained unhappy they brought their complaint to this service. They ask that NFUM settle the claim.

Our investigator looked into Mrs & Mr H's complaint and thought it would be upheld. He looked at NFUM's underwriting criteria which said the tracking device endorsement would apply to all cars with a market value above £75,000. He thought NFUM wasn't able to definitively show that the car was worth over this amount, and he thought NFUM should pay the claim and add £350 for Mrs & Mr H's distress and inconvenience.

NFUM didn't agree with the view and asked that this complaint was reviewed by an ombudsman. So, it has been passed to me to make a decision.

I issued a provisional decision not upholding this complaint:

I'll explain that I have read the entire file of evidence I've been provided and I'll not refer to it all here. Instead I want to focus on the central part of Mrs & Mr H's case. This is in line with the informal approach of this service.

Having read the file, I'm proposing to not uphold this complaint. I know my proposed decision will distress Mrs & Mr H and I'll explain why I'm proposing to reach this decision.

I can see from the policy documents issued to them for the November 2022 renewal of their policy that they include this endorsement about a tracking device:

"Tracking Device Requirement

WE will not pay for loss or damage to YOUR CAR caused directly by THEFT or

attempted THEFT unless at the time of the loss YOUR CAR is fitted with an operating Thatcham Approved Tracking Device, and any subscription to the system operator has been maintained. This requirement comes into effect 30 calendar days from adding YOUR CAR to YOUR POLICY."

It's clear to me that Mrs & Mr H knew about the endorsement. I've read in the file details about the tracking device fitted to their car. The car had suffered some previous damage and had been taken for repair, during which the signal had been lost and it couldn't be reset. I can see from the file this had happened around October to November 2022.

Their subscription to the tracking device service also failed around the same time because the device wasn't seen by the operator as sending out a signal.

What this means is that the car had neither a working device nor active subscription at the time it was taken.

There's been extensive discussion about the exact value of the car at the time it was taken. The reason for this is because NFUM automatically apply the endorsement to cars above £75,000 in value. Mrs & Mr H's policy documents showed the car had a value of £85,000 when the car had been added to a previous policy, and this value hadn't been changed since the previous policy had inception.

But I don't think that matters in this case.

It's important I say that there's no mention in the policy endorsement of the vehicle value forming part of the requirements for the attachment of the endorsement to their policy. And that's why I don't consider the exact value of the car at the time it was stolen to form part of my proposed decision.

I can see the requirements for a tracking device are stated clearly on the policy documents and I can see that these documents were issued to Mrs & Mr H, and I think it's fair I say they were aware of the requirements.

It's Mrs & Mr H's responsibility to check the details on their policy documents and update them with NFUM.

Unfortunately for Mrs & Mr H they didn't tell NFUM about the problems they were having with their tracking device and subscription.

The problems with the device and subscription meant they weren't complying with the terms of their policy, and so this means I think NFUM has acted fairly in declining their claim.

Responses to my provisional decision

NFUM responded and accepted my provisional decision.

Mrs & Mr H responded and said weren't given appropriate or proper guidance as to the consequences of providing a market value for the vehicle in excess of £75,000.

They said they would have insured the car for a lower figure in order to reduce their premium and mean they didn't have to pay a subscription for the tracking device, which was about £300 a year.

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.

In their response, Mrs & Mr H return to the issue of the application of the tracking device endorsement to their policy based on the valuation of their car.

They say that they say they should have been told that by valuing their car over £75,000 meant they would have to have and use the tracking device.

If I take that position and develop it further, it's possible to say that if NFUM's staff told its customers that the endorsement was applied to cars with values over £75,000, then there would be an incentive for those customers to declare the value lower in order to benefit from the lack of additional security requirement.

Taking that approach to its ultimate conclusion in this case, if the car was then stolen and a claim made for its total loss, NFUM would be considering the market value of the car at the time of the loss according to its policy wording.

It's important I say that, even if the policy schedule stated a lower amount, this service would generally support settling Mrs & Mr H's claim at its market value which is in common with the vast majority of car insurance policies. And I can see from the research on trade guide values carried out by our investigator that the car's market value was significantly higher than Mrs & Mr H now seem to be suggesting.

There are further implications with misrepresenting matters when applying for car insurance that I won't go into here, but I think it's fair I say that the result of those would likely be that NFUM was also able to reject this claim given the terms and conditions I've read.

I said in my provisional decision that I don't think the value of the car is the central aspect of this complaint. I can see from their later submissions that Mrs & Mr H increasingly talk about whether they were being given correct information about the policy when it renewed. I've looked at the renewal documents and I can see they say (in different sections):

"We have assessed your requirements to ensure that this cover is consistent with your demands and needs. However, we have not provided you with a personal recommendation on which cover and options you should take."

"There are important documents in this pack that you should read. Please check these documents carefully and tell us, before your renewal date, if any of this information has changed or is missing."

"Please read the enclosed documents thoroughly and make sure the cover still meets your needs."

Having read the documents I think it's clear that the tracking device plus subscription was required under the terms of the policy and that it was Mrs & Mr H's responsibility to check and verify the details shown.

I've also seen evidence that, about four weeks before the policy renewed, Mrs & Mr H had apparently been discussing the renewal of the tracking device subscription with the provider.

As I said in my provisional decision, I think it's fair to say Mrs & Mr H were aware of the endorsement and complied with it, as the tracking device was fitted and had previously had

a subscription. And I think it's fair I say that this shows me they both agreed with the endorsement and were happy to comply with its requirements.

The central point of my provisional decision was that their policy included the endorsement and I intended to decide that this was the paramount issue. NFUM applies that endorsement to protect itself from thefts of high value vehicles.

If Mrs & Mr H didn't agree with the endorsement, then at any time they could have contacted NFUM and discussed it with them. And as I said above, I think they were reasonably aware of the issues with the tracking device at the time of renewal.

But the fact remains that they didn't discuss this with NFUM.

Taking that into account, I think it's fair I say the application of the endorsement to their policy cannot be unfair if they previously accepted it and complied with its requirements.

So I do appreciate my final decision will be upsetting for Mrs & Mr H but I can't say NFUM acted unfairly when it declined their claim and I'm not upholding their complaint.

My final decision

It's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 4 July 2024.

Richard Sowden
Ombudsman