

The complaint

Mr K complains that Aviva Insurance Limited (Aviva) declined a claim made under his van insurance policy.

What happened

In October 2021, Mr K purchased a van via an online marketplace in cash, for a much lower price than he'd seen similar vehicles for. Mr K was concerned when he tried the same day to change the V5 document at the post office and it wouldn't scan, so he says he contacted the Police to check if the van was recorded as having been stolen, and they advised it wasn't.

Mr K already had a van insurance policy with Aviva, so later that day he changed the insured van to the van he purchased. Mr K parked the van at home, but by the morning, it was gone, so he made a theft claim to Aviva.

During claim validation, Mr K said he'd left the receipt and one of the keys he'd been given by the seller in the glove compartment. Aviva declined the theft claim on the basis of an exclusion for theft of a vehicle where keys are left in it. Mr K was unhappy with the claim declination and approached the Financial Ombudsman Service.

Ultimately one of my ombudsmen colleagues considered the case, and in summary, he said that Aviva couldn't rely on the exclusion for theft of a vehicle where keys are left in it, as he wasn't persuaded Aviva had shown it was material to the loss. Instead, he thought it likely Mr K was a victim of a scam, and the vehicle had been taken by the seller, or an accomplice, using a spare key. So, the ombudsman said Aviva couldn't rely on the specific exclusion they had to decline the claim and would need to deal with it subject to the remaining policy terms and conditions. He also awarded compensation.

Mr K accepted the final decision, and Aviva continued with the claim validation. However, during this, Aviva identified that the vehicle Mr K had purchased was actually a clone of a genuine vehicle. Aviva then declined Mr K's claim on the basis the vehicle insured wasn't the genuine one.

As Mr K remained unhappy with Aviva, he again approached the Financial Ombudsman Service.

One of our investigators looked into things but he didn't uphold the complaint. He said because the vehicle Mr K purchased was a clone, he didn't have insurable interest and it wasn't technically Mr K's. So he didn't recommend Aviva do anything further.

Mr K didn't agree and asked for a final decision from an ombudsman.

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.

My ombudsman colleague considered Aviva's previous decision to decline Mr K's claim based on an exclusion for theft of a vehicle where keys are left in it, and he said they couldn't rely on this specific exclusion to decline the claim. Here in my final decision, I'm only considering Aviva's new reason for declining the claim – due to the van being a cloned vehicle – I'm not revisiting matters already considered by my ombudsman colleague.

Having done so, whilst I appreciate it'll come as a disappointment to Mr K, I've reached the same overall outcome as our investigator.

I do fully recognise that Mr K appears to be the innocent victim of a scam. He purchased a vehicle in cash, the day of purchase it was stolen, and it later turned out to be a cloned vehicle. And as a result, Mr K has lost a significant amount of money and I can appreciate why he is unhappy with the losses he's incurred. However, whilst Mr K does have my sympathy for what has happened, I don't think Aviva is acting unfairly by saying there is no cover under Mr K's policy or declining the claim.

Aviva received confirmation from the Police that the vehicle Mr K purchased was a cloned vehicle. This was after the Police had placed a stolen vehicle marker for the vehicle and registration plate, which then resulted in the genuine vehicle, with the genuine owner, being repeatedly stopped. The Police then removed the stolen marker on the basis that the original genuine vehicle hadn't been stolen and the vehicle Mr K had purchased was a clone of it.

As the van Mr K bought (which was then stolen) was a cloned vehicle, this means it was a different vehicle, illegally purporting to be the genuine vehicle Mr K thought he was buying. This is often done as the cloned vehicle has been previously stolen and then disguised as a genuine non-stolen vehicle to sell on to a buyer without their knowledge.

What this means though is that the vehicle Mr K thought he was purchasing, was never rightfully his. The van Mr K thought he was buying and insuring under the policy with Aviva is owned by someone else, and that van wasn't actually stolen. So, Mr K didn't have any insurable interest in that van because he's not the real owner or keeper of it. Even if the vehicle wasn't stolen from Mr K when it was, it would likely have been recovered from Mr K at some point when it was discovered that it was a cloned, rather than a genuine vehicle.

With the above in mind, I don't think Aviva has acted unfairly by declining the claim.

Mr K's vehicle was stolen on the day of purchase, and Mr K says that when the Police later knew the vehicle was cloned, for some unknown reason that didn't stop the DVLA initially putting the V5 in his name in error after he'd already requested a new one. He says that neither of these government agencies are taking responsibility. So, Mr K says Aviva, or someone else the Financial Ombudsman Service deems appropriate, should be covering his losses.

Whilst I appreciate Mr K is unhappy with both the DVLA and the Police, neither of those agencies are within the jurisdiction of the Financial Ombudsman Service. Instead, my remit here is isolated to Aviva, the insurer, and for the reasons outlined, I don't think they've acted unfairly by declining Mr K's claim on the basis it was a cloned vehicle.

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 Mr K to accept or reject my decision before 15 August 2024.

Callum Milne
Ombudsman