

The complaint

Miss P complains about Watford Insurance Company Europe Limited (“WICL”) and their decision to decline the claim she made on her motor insurance policy.

What happened

The claim and complaint circumstances are well known to both parties. So, I don’t intend to list them chronologically in detail. But to summarise, Miss P held a motor insurance policy, underwritten by WICL, when her car was stolen and damaged significantly in a resulting police chase. So, she contacted WICL to make a claim.

WICL declined Miss P’s claim as she admitted in the initial notification call that a spare key had been stored in the glovebox of the car at the point it was stolen. Miss P was unhappy about this decision, including the length of time it took for this to be communicated, so she raised a complaint.

WICL responded to the complaint and upheld it in part. They thought they had acted in line with the terms and conditions of the policy when declining the claim. But they accepted they could’ve communicated this to Miss P sooner. So, they offered to cover any storage costs that may have been incurred from the date of claim notification to the date they made Miss P aware of the claim decline. Miss P remained unhappy with this response, so she referred her complaint to us.

Our investigator looked into the complaint and upheld it. They noted it wasn’t in dispute that Miss P had left a spare key in the car. And they recognised there was an applicable exclusion contained within the policy documents.

But having considered our service’s approach, they didn’t think WICL had provided evidence to show the exclusion being relied upon was material to Miss P’s loss. Essentially, they didn’t think WICL had provided evidence to show the car was stolen because the spare key had been left in the car. So, they didn’t think WICL had acted fairly or reasonably when declining the claim and they recommended WICL reopen the claim and pay Miss P £300 for the distress and inconvenience she’d been caused.

Miss P accepted this recommendation. But WICL didn’t. They explained that as a gesture of good will, they had arranged for an engineer to inspect Miss P’s car for theft related damages. But they maintained the exclusion they relied upon when declining the claim was clear. So, they requested that the complaint be passed to an Ombudsman for a decision.

I issued a provisional decision on 9 December 2024, explaining my intention to uphold the complaint for broadly the same reasons as the investigator, but with a different recommendation. In that decision I said:

“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’m upholding the

complaint for broadly the same reasons as the investigator. But what I think WICL should do to put things right is different. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

I note in this situation, it's not in dispute that Miss P left her spare key in the glovebox of her car when it was stolen. And I've seen the terms and conditions of the policy which set out clearly an exclusion for loss or damage to Miss P's car where "the ignition keys have been left in or on your car". So, under a strict application of these policy terms and conditions, I can understand why WICL chose to decline the claim.

But crucially, under our service's approach to the application of policy exclusions, I must also be satisfied WICL acted fairly and reasonably when relying on this exclusion. And when considering this, I'd expect to see evidence that showed the exclusion is material to the loss. So, in this situation, I'd expect WICL to provide evidence that satisfies me Miss P's car was stolen because her spare key had been left in the car. And I don't think that's the case here.

Having reviewed the evidence and information available to me, provided by either WICL or Miss P, I can't see that WICL completed a sufficient investigation, as our service would expect. This would've included, and is not limited to, actions such as obtaining a police report or instructing engineer to assess the damage to Miss P's car. On top of this, despite Miss P sending WICL her main key, I can't see that WICL undertook any investigations to try and determine how Miss P's car was broken into, or how it was then able to be driven by the thieves, which ultimately led to the significant damage the car sustained.

Instead, some weeks after the first claim notification, WICL realised Miss P had admitted a spare key had been in the car at the time of the theft and so, they chose to decline the claim solely on this basis. So, considering our service's approach and what I'd expect to see, I'm unable to say WICL acted fairly or reasonably when declining the claim and so, I've then turned to what I think WICL should do to put things right.

Putting things right

When thinking about what WICL should do to put things right, any award or direction I make is intended to place Miss P back in the position she would've been in, had WICL acted fairly in the first place.

In this situation, had WICL acted fairly, I think they would've ensured they undertook all the necessary investigations to ensure the spare key being stored in Miss P's glovebox was material to the theft of the car.

But they didn't do this, instead choosing to decline the claim without any of this information being obtained. This has left Miss P in a situation where she has been left without a car despite having an outstanding finance agreement she's needed to maintain. And as she hasn't had the funds to clear this existing finance, she has been unable to take out another agreement for a replacement car due to the cost and affordability.

Our investigator recommended that WICL should re-open and reassess the claim, while paying Miss P £300 compensation, to recognise the above. And I do think the £300 compensation is a fair one, that falls in line with our services approach, to recognise the distress and inconvenience she's been caused since she reported the claim in mid-September.

But crucially, I don't think it would be appropriate for WICL to be afforded time to complete the investigations they should've done at the start of the claim process, as I think this will further inconvenience Miss P, ultimately delaying the claim even further, through no fault of her own.

So, to recognise this and the fact WICL has already had a reasonable opportunity to investigate the claim, I think a fairer outcome would be for WICL to now pay Miss P's claim. So, this is what I intend to direct WICL to do.

I would also expect WICL to ensure Miss P isn't financially disadvantaged by the delay in paying the claim. So, I also intend to direct WICL to cover any storage costs that have been incurred on the claim, from the point the claim was made to the date the claim is paid and settled.

Responses

Miss P accepted the provisional decision. But WICL didn't. WICL provided an engineer's report of an inspection undertaken on Miss P's car on 17 December 2024, explaining why they felt this report support their original position. WICL said the report confirmed there was no theft related damage. And, that Miss P's car required a key to start the ignition. So, they thought this was evidence that the key left in Miss P's glove box was material to the theft and so, they were fair to decline the claim.

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 won't be changing my original conclusions, and I'll explain why.

I recognise WICL have provided an engineer's report that wasn't available to me when I issued my provisional decision. And I want to reassure WICL I've considered this report, and their accompanying comments at length to decide whether it changes my opinion. And it doesn't on this occasion.

WICL say the report confirms there was no theft related damage reported. But I don't think the report itself confirms this information. Instead, the report has inspected the damage to Miss P's car overall and considered the costs to repair this, before going on to deem Miss P's car a total loss and putting forward a potential valuation, subject to mileage and other information being confirmed.

I can't see anywhere in the report where the engineer comments on whether there was theft related damage. Or, that the engineer considered or commented on how Miss P's car was broken into or driven away. Nor does the report confirm anywhere what sort of key Miss P's car required to substantiate WICL's position that the key was needed to drive the car away.

So, while I recognise WICL have obtained this report on the belief it would support their position, I don't think that's the case here. I think the facts of my provisional decision remain the same in that WICL have still failed to provide evidence that shows the spare key being in the car was material to its theft. And my view remains the same that WICL have had more than a reasonable amount of time to gather this information, which would likely have included a copy of a police report and an investigation into the key Miss P provided, as well as any key that may or may not have been recovered when the police stopped Miss P's car.

So, because of the above, it is my decision that WICL have acted unfairly, and

unreasonably, when declining Miss P's claim and so, I've again turned to what I think WICL should do to put things right.

Putting things right

My provisional decision clearly laid out the actions I intended to direct WICL to take. And as my overall conclusions remain the same, it follows that what I am directing WICL to do also remain the same.

So, to place Miss P back in the position she would've been in had WICL acted fairly, I am directing WICL to accept and pay Miss P's claim, including covering any storage charges they may have been incurred from the date the claim was made to the date the claim is settled. I am also directing WICL to pay Miss P £300 compensation to recognise the inconvenience and frustration she's been caused by the situation.

My final decision

For the reasons outlined above, I intend to uphold Miss P's complaint about Watford Insurance Company Europe Limited and I intend to direct them to take the following action:

- Accept and pay Miss P's claim, including covering any storage costs incurred; and
- Pay Miss P £300 compensation to recognise the distress and inconvenience she'd been caused by the situation.

Under the rules of the Financial Ombudsman Service, I'm required to ask to accept or reject my decision before 30 January 2025.

Josh Haskey
Ombudsman