

The complaint

Mr K has complained that U K Insurance Limited (UKI) unfairly told him it was refusing a motor insurance claim it had already settled in his favour. It added that he must repay that settlement together with its costs incurred in investigating the matter.

What happened

At around 2am on 1 January 2023 Mr K reported a motor accident to UKI. The front of his car had ended up in a pond. UKI arranged for his car to be recovered.

UKI spoke with Mr K soon after to take the details. Mr K said that he was driving through woods on his way home when an animal, most likely a deer, suddenly appeared in front of his car. He said he swerved to avoid it, lost control and the car ended up with its front wheels in the pond. He said he was travelling at about 30mph at the time.

UKI told Mr K that his car was a total loss. It offered him around £50,900 for the pre-accident value (PAV) of the car, which Mr K accepted. After deducting his £600 excess UKI settled his claim.

Mr K also had a GAP policy provided by a different insurer. That policy covered the difference between the PAV and the cost to replace his car with one of a similar age, mileage and value at the date he bought it. The GAP insurer estimated that sum to be almost £40,000.

The GAP insurer had some concerns with Mr K's claim. It appointed a legal firm (the firm) to investigate it. The GAP insurer told UKI it was investigating the matter. In the course of the investigation the firm interviewed Mr K twice. A forensic engineer specialising in road traffic collisions produce a report on the incident as did an expert in vehicle keys.

After considering the evidence including the forensic engineer's report the GAP insurer concluded that the accident hadn't happened in the manner Mr K said and refused to pay his claim. It said there were a number of discrepancies in his evidence. It shared its findings with UKI.

Having reviewed the matter UKI concluded that Mr K had knowingly given it information that was false. So it said it was refusing his claim and asked him to repay its outlay which, after deducting the sum it received in respect of the salvage for his car, stood at around £43,500.

Mr K didn't think UKI had dealt with him fairly. He brought his complaint to the Financial Ombudsman Service. One of our Investigators looked into it. He didn't think the complaint should be upheld. He thought it was reasonable for UKI to rely on the expert evidence of the forensic engineer. But he said that if Mr K could provide alternative expert evidence he would expect UKI to review it.

Mr K didn't agree with our Investigator's complaint assessment so the matter's been passed to me to determine.

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, for the reasons set out below I don't uphold Mr K's complaint.

In bringing this complaint and responding to it Mr K and UKI have made numerous points. I've considered all the evidence that is still available to me. I haven't sought to repeat all of that or to list everything that Mr K disputes here. That's because I don't think I need to in order to explain the reasons for my decision. But I want to assure Mr K that I've very carefully considered his detailed points made when submitting his complaint.

That said I will comment that, along with his written submissions, Mr K also sent us two recordings of his interviews with the firm, and a copy of his early call with UKI. I've been able to access the call with UKI, but the other two recordings are no longer accessible. So I haven't heard those in their original format. I considered delaying making my determination until I had obtained those but I decided that I didn't need to. That's because in his detailed submission to us Mr K has provided 'verbatim' quotations of the key points he wishes to make from those interviews and the things he disagrees with. I accept that he has reported those quotations accurately. After all he provided recordings of those which would have allowed me to consider the original recordings and to easily identify if he had misrepresented those. I don't think he would have done that. So I accept that his written submissions on those points are a precise reflection of what was actually said at those important points, as such I don't need to hear the original recordings.

Mr K has also complained about the actions of the GAP insurer. We are considering that complaint under a separate reference number. And I will issue a decision on that matter separately. So, while I have occasionally referred to the actions of the GAP Insurer, I have done so for context purposes only and do not make any findings about the GAP insurer within this decision.

Initially UKI had no concerns with Mr K's claim and settled it fairly promptly. But at a later date the GAP insurer made it aware of its concerns that the accident didn't happen as Mr K had claimed. Mr K's policy says that UKI won't pay a claim that is in any way fraudulent, false or exaggerated. And UKI decided to review the matter., including considering evidence the GAP insurer provided. That's something it's entitled to do.

It's not my role to determine whether or not Mr K's claim was fraudulent. But I do have to decide whether or not I think UKI's decision to decline his claim on the basis that it did was fair and reasonable in all the circumstances.

I acknowledge there have been numerous concerns UKI raised regarding the claim such as the purpose of Mr K's journey and his speed at the time of the incident which are still disputed between the parties. I don't intend to address each of those. But I think that some of UKI's concerns aren't justified by the evidence.

For example, it's not in dispute that Mr K initially told UKI that he was travelling at around 30mph at the time of the incident. But the firm said he'd told it he'd been travelling at 60mph. But I don't think he did say that to the firm.

The evidence I've seen shows that Mr K initially told the firm that at the time of the incident he'd been travelling at the "National Speed Limit" (NSL). The firm interpreted that to mean 60mph. However, the NSL varies depending on the type of road being driven on. For

example on a single carriageway road that benefits from street lighting, the NSL is 30mph. But on an otherwise similar road, without street lighting, the NSL is 60mph. So the NSL can be either 30 or 60mph depending on whether or not there are street lights.

In this case I'm satisfied that Mr K told the firm that he'd been travelling at close to the NSL. But he didn't actually tell it how fast he was going in miles per hour. So he didn't actually say he'd been travelling at 60mph. The road Mr K had been driving down did not have street lighting. That means that if the NSL applied to it the speed limit would have been 60mph. As a result the firm inferred that Mr K said he was driving at 60mph. But I accept that, when answering the firm's question about his speed, Mr K initially didn't appreciate the distinction between the NSLs. That is he thought that, on most roads, the NSL would be 30mph and that's the speed he intended to say he was travelling at. It follows that I accept his evidence that he didn't ever say he was driving at 60mph and only ever intended to say he was driving at close to 30mph. In other words, the apparent discrepancy here can be explained by a misunderstanding rather than a deliberate attempt to mislead. But that doesn't mean that UKI's decision to refuse the claim was unfair.

I say the above because it's apparent to me that the most influential reasons for believing the claim wasn't genuine are found in the forensic engineer's report. The engineer concluded that there was no tyre marks at the scene, which he found improbable if the accident happened as Mr K had reported it.

I note that the engineer was working under the misapprehension that Mr K had given conflicting information about his speed. That is that Mr K had reported his speed to be both 30mph and 60mph on different occasions. So the engineer gave the likely scenarios for both speeds. He thought that, assuming Mr K applied his brakes, if he'd been driving at 60mph, the car would have ended up fully in the pond. But at 30mph it might have stopped short of the pond or ended up just with its front wheels in it, as actually happened. But the engineer said that braking would have left noticeable tyre marks at the scene, which weren't apparent on the images taken at the time.

However, Mr K's account was that he didn't brake at all. He said that after changing direction to avoid the animal in his path, he, perhaps inadvertently, accelerated. The engineer considered this but concluded in that scenario that Mr K's car would 'very likely' have 'fully entered' the pond. But that didn't happen.

Mr K said that the stopping position for the car could have been dependent on how firmly he applied the accelerator. But I think the engineer considered this. That is, the engineer concluded that if Mr K had braked then his car would have ended up either with its wheels in the pond or very close to it. In other words in a similar position to the one the car was actually found in. It follows that, without braking and in fact accelerating, the car would have travelled further than it actually did, no matter how hard that acceleration was. But the car didn't end up fully in the pond. So Mr K's explanation doesn't account for how the car ended up where it did in the situation he described.

I'll add that the engineer commented that he'd been given an image showing a 'diagram' of the approximate position of the car when Mr K had seen the animal. The engineer said that Mr K himself had provided that diagram. But Mr K said he didn't provide it and while he gave the firm approximate locations he didn't supply the diagram nor agree it was accurate. I accept his evidence on this point. So it appears that this is information the firm passed to the engineer, which the engineer mistakenly believed Mr K had provided.

Mr K said the diagram was inaccurate and he believed that his actual position was 'higher up the road'. But I don't think that calls into question the engineer's findings on the matter, for

example about stopping distances. That's because if Mr K had been further up the road than the diagram showed, then the distance between him seeing the animal and the pond would have been shorter. Giving him even less chance to stop and a higher likelihood of ending with the car fully in the pond. It follows that I don't think that the fact the engineer mistakenly believed that Mr K had himself produced – or agreed – the diagram, made the engineer's overall conclusions on it 'null and void' as Mr K said.

I think it's also worth commenting that the engineer said that had the incident Mr K described occurred then the car's event data recording system would have recorded five seconds of data prior to the crash. But the engineer found that the car's onboard system did not record any sort of event that indicated an accident or a potential accident.

Mr K's said that the engineer is not a specialist in the type of car he was driving. But I don't think the engineer needed to be. He's set out details of his experience which qualifies him to author such reports. And he's clearly familiar with using the diagnostic software tools to examine such data. So, I think it's reasonable for UKI to consider him to be an expert in his field. And the engineer concluded that in the circumstances of the accident Mr K described the car's system would have recorded data for five seconds prior to the accident. But no data was recorded. As a result of these things the engineer determined that the accident didn't happen as set out in Mr K's claim.

I appreciate that Mr K disagrees with the engineer's findings. But Mr K is not an expert in such matters and he has not provided any evidence from another suitably qualified person that called the engineer's conclusions into question.

In those circumstances I'm satisfied that it's reasonable for UKI to rely on the forensic engineer's conclusion that the accident didn't happen as set out in Mr K's claim. So, I think UKI was reasonable to infer that Mr K had been dishonest or fraudulent when submitting his claim. It follows that I think it was acting in line with Mr K's policy terms when refusing to pay it. And, as it had paid a claim that it would not otherwise have done I think it's reasonable for it to seek to recover its outlay.

My final decision

For the reasons given above 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 13 June 2025.

Joe Scott
Ombudsman