

## **The complaint**

Mr K has complained that Great Lakes Insurance SE unfairly refused a claim on his guaranteed asset protection (GAP) policy and accused him of dishonesty in the process.

The insurance intermediary which administers the policy have taken the majority of actions Mr K is complaining about. But, as Mr K's complaint is ultimately about a decision to refuse a claim, the responsibility for responding to that rests with Great Lakes which underwrites the policy. So, for ease of reading I will only refer to Great Lakes within this decision.

## **What happened**

At around 2am on 1 January 2023 Mr K reported an accident to his motor insurer, who I'll call Insurer U. The front of his car had ended up in a pond. Insurer U arranged for his car to be recovered.

Insurer U spoke with Mr K soon after to take the details. Mr K said that he was driving through a wooded area 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 a pond. He said he was travelling at about 30mph at the time.

Insurer U told Mr K that his car was a total loss. After deducting his excess it paid him around £50,300 for the pre-accident value (PAV) of the car.

Mr K also had a Great Lakes GAP policy. 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. Mr K submitted a claim to Great Lakes which estimated it to be worth around £40,000.

Great Lakes had some concerns with Mr K's claim. It appointed a legal firm (the firm) to investigate it. Great Lakes told Insurer U it was investigating the matter. In the course of the investigation the firm interviewed Mr K twice. It also wanted to make enquiries of Mr K's friend who he'd spent some time with on the night in question. 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 Great Lakes 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 doubts about his evidence. It shared its findings with Insurer U, who also decided to refuse Mr K's motor claim.

Mr K didn't think Great Lakes 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.

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 Great Lakes 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 the detailed points he 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 Insurer U. I've been able to access the call with Insurer U, 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. 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 action of Insurer U. We are considering that complaint under another reference number. And I will issue a decision on that matter separately. So, while I have occasionally referred to the actions of Insurer U in this decision, I have done so for context purposes only and I do not make any findings about Insurer U's actions here.

Initially Insurer U had no issues with Mr K's claim and settled it fairly promptly. But Great Lakes had some concerns from the outset. After the matter was investigated it told Mr K it questioned the 'veracity' of his claim and as a result it was refusing to pay it because it didn't think it was 'genuine'.

Mr K's policy says that it will not pay any claim which is the subject of fraud or dishonesty. I note that Great Lakes hasn't explicitly accused Mr K of those things. But I think it's reasonable to infer that was its implication when it referred to the veracity or genuineness of his claim.

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

I acknowledge there have been numerous concerns Great Lakes raised during the investigation of the claim such as – amongst others – the purpose of Mr K's journey and his speed at the time of the incident where the two parties disagree. I don't intend to address each of those. But I think that some of Great Lakes concerns aren't justified by the evidence.

For example, it's not in dispute that Mr K initially told Insurer U 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, on a single carriageway road, 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. Therefore, the apparent discrepancy here can be explained by a misunderstanding rather than a deliberate attempt to mislead.

Similarly, I note that Great Lakes were concerned that Mr K's mobile phone record didn't confirm the calls he said he'd made following the incident. But Mr K has said that he generally makes calls using other apps installed on his phone which wouldn't show on his mobile phone record. I accept that could have addressed that point. However, while I think that some of Great Lakes concerns aren't necessarily persuasive that Mr K has been dishonest, I don't think that means its decision to refuse his claim was unfair.

I say the above because it's apparent to me that the most influential reason for believing the claim wasn't genuine was because of 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 Mr K had 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 Great Lakes 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 sensors 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 its reasonable for Great Lakes 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 Great Lakes 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 his claim.

### **My final decision**

For the reasons given above I do not 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 12 June 2025.

Joe Scott  
**Ombudsman**