

## **complaint**

Mr C is represented by P, a company. He complains that Society of Lloyd's won't pay his claim for theft of golfing equipment from his car.

## **background**

In September 2017 Mr C suffered a theft of golfing equipment from his car. He had left the equipment in his car the night before, parked on his driveway. His car didn't have a lockable boot but he placed the items in the rear compartment covered by a blanket. When he got up the next morning and switched on his tracker device he discovered the vehicle had been broken into and all the equipment stolen. It was valued at around £5,000. Mr C later revised this down to £4,784. Lloyd's declined the claim as there is an exclusion in the policy concerning items stolen from an unattended vehicle. This is that it didn't cover such items unless they were concealed in a locked boot or glove compartment and forcible or violent entry was made to enter the vehicle.

P said on behalf of Mr C that his vehicle didn't have a "boot" and the items were too big to fit into the glove compartment or small storage compartment in the car. So he took care to hide the items. There was no definition of boot in the policy and a lot of cars don't have a boot as such. Lloyd's said the exclusion was clear and that its policy terms excluded the theft.

On referral to this service our investigator said that Lloyd's had acted reasonably.

P disagreed and pointed out that this service had previously upheld a complaint on this particular wording/policy, saying it was unclear and that it should be construed as saying that Lloyd's would cover any claim from an unattended vehicle (whether or not in a locked boot or glove compartment) of less than £5,000. It said that Mr C had covered the items with a blanket rather than carelessly leaving it on show and that it was a significant exclusion which should have been drawn to Mr C's attention when he purchased the policy.

I issued a provisional decision. In it I said that I thought the exclusion was unclear and in view of that Lloyd's should pay Mr C's claim, together with interest where Mr C had purchased replacement items.

Lloyd's accepted my provisional decision, and has contacted for Mr C for receipts with a view to paying the claim.

Whilst accepting my provisional findings on behalf of Mr C, P raised two matters:

Whether the rate of interest should be 8% per year rather than a flat 8%.

It said that Lloyd's had had the benefit of the settlement in its account since the start of the claim, so should pay interest on the whole cash settlement from the date of the claim. For the items Mr C has replaced he has suffered a double loss as Lloyd's has unreasonably sat on the settlement funds and his own funds have been depleted.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

My provisional findings were as follows:

*“Mr C has an “all risks” policy. This means that any loss or damage is covered unless there is an exclusion or a limit set out in the policy. The exclusion Lloyd’s relies on is:*

*“We do not provide cover under the whole of the **contents** section for the following:*

*...11. Any amount over £5,000 for theft or disappearance from any vehicle that is left unattended but then only if any items that are left unattended were hidden out of view in the vehicles locked glove compartment or locked boot and forcible or violent entry was made to enter the vehicle.”*

*I think that wording is unclear. I take it that it is intended to mean that it won’t pay for any amount over £5,000 but if the claim is for less than that then the conditions about the locked glove compartment/boot and forcible and violent entry apply. But that isn’t how the condition reads to me, it could mean that Lloyd’s won’t cover loss over £5,000 unless it is in a locked boot etc. For losses under £5,000 there is no such condition. Where wording is unclear in a policy we say it’s fair to construe that in favour of the consumer.*

*Mr C’s claim is for £4,784. I appreciate that he initially said his items were worth over £5,000, but frequently consumers change the amount they are claiming when they find out the exact cost of replacements. In any case as the wording says “any amount over £5,000” Lloyd’s still had to address the claim up to that amount. So I think that Lloyd’s should pay Mr C’s claim. If it pays a cash settlement and Mr C has paid for replacements it should add 8% to the payment from the date he paid for them until the date of reimbursement.*

*I would observe that the up to date wording for this particular policy is substantially different.*

*I’ll deal with Mr C’s other points. I recognise that he made attempts to hide the items and that the side windows of his car are heavily tinted. But as Lloyd’s pointed out the items could be seen through the windscreen and the blanket is not in my view an effective way of concealing them. Lloyd’s does not want to pay where items are not in a locked boot or glove compartment, and I think it is fair for it to apply that exclusion where it is clearly set out.*

*P also says it is a significant exclusion which should have been brought to Mr C’s attention when he bought the policy. In respect of an all risks policy, it is a matter for the business to highlight significant exclusions and it chose in its summary provided at inception to highlight exclusions which apply to the whole policy. It can’t highlight every exclusion and though I appreciate it was significant to Mr C I think the approach taken by Lloyd’s was reasonable.”*

As far as P’s comments are concerned, the rate of interest should be 8% per year, I’m grateful to it for pointing that out.

I’ve considered the points P has made concerning the date from when interest should be paid. I understand his point, but P raised this complaint with this service in December 2018 and received a response from us requesting information in early January 2019. P didn’t chase the matter up again until November 2020. In those circumstances I don’t think it would be reasonable to ask Lloyd’s to pay interest from the start of the claim. Mr P hasn’t made a double loss – to the extent that he has used his own funds the payment of interest will compensate him for the loss of use of those funds.

My provisional findings, save as mentioned above are now final and form part of this final decision.

**my final decision**

I uphold the complaint and require Society of Lloyd's to settle Mr C's claim up to £5,000. If it pays a cash settlement, in respect of any items Mr C has purchased as replacements it should add 8% per year simple interest to any such payments from the date Mr C made them until the date it reimburses him.

Society of Lloyds is required by HM Revenue and Customs to deduct tax from any interest paid. Should Mr C request it, it should provide him with a certificate showing how much tax has been taken off so that, if appropriate, he can reclaim it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 29 July 2021.

Ray Lawley  
**Ombudsman**