

## **The complaint**

Miss M, represented by Mr M, says that Royal & Sun Alliance Insurance plc (RSA) unfairly refused to pay a claim she made on her motor insurance policy, because it believed that her car was stolen as a result of deception. Miss M also complains that RSA did offer to pay the claim but then withdrew the offer, and that the whole process took too long.

## **What happened**

Miss M noticed a problem with her car. Mr M took it to the main dealership for her, but the price quoted for repairs was very high. Mr M did some research on the internet and found another repair company, which I will call company R, a considerable distance away. He found some positive reviews about company R online. Mr M called company R and spoke to a man I will call S. S said he could repair the car for a great deal less than the main dealership had quoted. Mr M agreed to this and paid half the amount quoted for the repairs via a bank transfer. The car was collected by an unmarked recovery vehicle driven by a man who showed no ID to Mr M.

Mr M sent several emails to S asking for updates. S replied each time, and the telephone number given was the same as before, but the company name was different. I will call this new company, company SE. The address given for company SE was a long distance away from the address given for company R.

Mr M then received an email from S saying that the damage to the car was worse than anticipated and asking for a further payment. The bank details given for this payment to company SE were the same as the bank details for company R. Mr M and Miss M became suspicious and did not pay anything further. Mr M told S not to do any further work on the car.

Mr M says he reported the matter to the police, but was told it was a civil matter not a crime. He found a group on social media where a lot of other people said very similar things had happened to them. Mr M also found out that the people apparently behind the scam were being investigated by the police. Mr M says he checked the addresses he had been given for company R and company SE and found that there were not in fact companies with these names at those addresses.

Mr M contacted S and asked for the car back. He was told he could collect it on payment of an outstanding amount. S gave Mr M an address where he could collect the car, which was different from the addresses he had been given for company R and company SE. Mr M says he went to this address more than once, but the car was not there.

Miss M made a claim for the loss of the car to RSA. She was offered a settlement figure which she accepted, but RSA then withdrew the offer, saying the car was stolen by deception, which was excluded by her policy. Miss M complained to RSA. RSA accepted that there had been some shortfalls in its customer service and offered her £150 in recognition of this, but did not change its decision about her claim.

Miss M complained to us, and her complaint was looked at by one of our investigators. The investigator did not uphold her complaint. He felt that RSA had shown that the theft was by deception. He said that Miss M and Mr M could have taken more steps to prevent it. So he said it was fair for RSA to rely on the exclusion clause to refuse the claim. He felt RSA had caused some delay and distress to Miss M. But he felt RSA had done enough to recognise that by offering her £150. So he didn't recommend it pay her any extra. Miss M did not agree, so the complaint has come to me.

### **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.

RSA is relying on this clause in Miss M's policy –

*"What is not covered...Loss or damage caused by deception."*

Firstly I need to consider whether RSA has shown that the exclusion applies – was this in fact theft by deception? RSA carried out an investigation into the circumstances of the theft. The investigator spoke with Miss M and Mr M. Mr M gave him copies of emails between himself and S, and showed him the information he had gathered about companies R and SE and the other people who had been victims of the same scam. Having read the investigator's report and the other evidence, I think on balance that there was a criminal scheme in operation here, and so I believe RSA was fair in saying Miss M was deceived into voluntarily handing over the car.

Mr M says that the theft of the car and the deception were separate events – the deception was an attempt to get more money from him for the repairs, and the car could have been taken to the pick-up point and then stolen from there. However he has no evidence that the car was ever taken to the pick-up point. In any event, he says he was told that the engine had been removed, so it seems unlikely that a third party could have stolen it. Mr M says that he was able to find a number of other people who had cars stolen in exactly the same circumstances. I therefore believe that the theft of the car and the initial deception were part of the same event.

So on balance I do believe that the car was stolen by deception. But in some circumstances where there has been deception, this service feels it would be unfair for insurers to refuse the claim. So I've considered if that's the case here.

Mr M made arrangements for the car to be collected by a repairer he did not have personal knowledge of, who gave an address a significant distance away. He said he was subsequently able to discover that the address given for the company was not genuine, and that a scam along these lines had been operating for a number of years. Mr M paid half the estimated cost of the repair up front and gave the car and a key to a man driving a plain recovery vehicle, without asking for any ID. Although he did find some good reviews about company R online, Mr M accepts with hindsight that he could have made more enquiries before handing the car over. I agree he could have taken more steps to ensure he was dealing with a genuine repairer.

Mr M says that the car was not his so he couldn't have voluntarily parted with it and the exclusion could not apply. I don't think it makes a difference who handed the car over, what's important is whether deception was involved and whether reasonable steps were taken to prevent it.

Mr M suggests that the policy was mis-sold as Miss M was not aware of the exclusion. This is a common clause in car insurance policies, so I think it unlikely that Miss M could have got cover from a different insurer without a similar clause. I also think it is unlikely that Miss M and Mr M would have acted any differently in handing over the car even if RSA had drawn the clause to her attention during the sale, as at the time they believed the repairer was genuine. So I don't think the policy was mis-sold, as highlighting the clause would not have made any difference to what happened.

Mr M has provided part of a document which he says shows that another insurer decided that an exactly similar claim was not theft by deception. However, it is not clear what the full circumstances of the other claim were, or how that insurer made its decision. I have seen RSA's investigation and I think it was thorough. In any event, different insurers make their own decisions on the individual circumstances of each case, as does this service, and I can only look at the circumstances of Miss M's claim.

Mr M has also complained about the offer that was made to Miss M and then withdrawn. He also complained about the length of time it took to decide the claim. RSA carried out an investigation into the circumstances of this complex claim, and also had to look into a further issue where Miss M hadn't provided it with relevant information. It took approximately four months to decide that the claim could not be paid. I think it was unfortunate that RSA made the offer before completing its investigation, and I can see how Mr M and Miss M found that frustrating and upsetting. However, I can see that RSA kept in regular contact with Miss M during the investigation, and explained its mistake. RSA has also apologised to Miss M for the time it took to decide the claim and for the error in making the offer. It has offered to pay Miss M £150 in recognition of this, and I think that was fair and reasonable in the circumstances.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 26 February 2021.

Sarah Baalham  
**Ombudsman**