

The complaint

Mr G complains about his insurer, Aviva Insurance Limited (Aviva), declining a claim for the theft of his vehicle under his motor insurance policy.

Any reference to Aviva in this decision includes their agents.

What happened

In October 2022 Mr G advertised his vehicle for sale through trade press and social media. A man contacted him to express interest in the vehicle and arranged to visit Mr G at home to view it. Mr G showed the man around the vehicle and started it, so the man could look under the bonnet. Mr G stepped away from the vehicle to change his footwear in his porch. But the man drove off in the vehicle.

Mr G immediately contacted the police to report the theft. He also contacted Aviva to tell them about the theft and lodge a claim. Aviva contacted him the following day to obtain some further information and said they'd decide on the claim within 14 working days. After some difficulty contacting Aviva after the 14 days had elapsed, Mr G received an email from Aviva saying they wouldn't accept the claim. They said Mr G left the vehicle to go back into his property to check on his children and get some shoes. They said Mr G had left the vehicle with the keys inside and the engine running and referred to a policy exclusion for loss of a vehicle being left unattended with the engine running.

However, Aviva acknowledged the time they'd taken to reach their decision and offered Mr G £200 compensation.

Unhappy at the decision to decline his claim, Mr G complained to Aviva. But they didn't uphold the complaint. In their final response, Aviva noted the circumstances of the theft and referred to the exclusion in the policy terms and conditions. They also referred to similar wording in the Insurance Product Information Document (IPID). Aviva also confirmed their offer of £200 compensation.

Mr G then complained to this service. On the incident, he hadn't entered his property and at no time was the man out of his line of sight (nor given him permission to enter the vehicle). And the incident had only taken seconds. Nor had he gone back into his house to check on his children. As such, he didn't believe he'd been negligent in his actions or left the vehicle unattended. He said he'd lost the value of the car (some £27,500) and had to buy a new car (using funds set aside for other purposes). The theft had also had a significant emotional impact on him and his family. He wanted Aviva to accept his claim and pay the value of his vehicle (and the £3,324 he'd had to pay for a replacement vehicle (and to insure it). He also wanted the previous six months insurance for his old vehicle returned to him. He also said he'd be willing to accept Aviva's offer of £200 compensation for their lack of communication.

Our investigator didn't uphold the complaint, concluding Aviva had correctly applied the exclusion in the circumstances of the case. It was unfortunate Mr G left the keys in the vehicle with a person he thought wanted to purchase his vehicle, and he wasn't in a position to deter or stop the theft. But the exclusion was clear, so Aviva had acted reasonably in

declining Mr G's claim. The investigator thought Aviva's offer of compensation for the time taken to decline the claim was reasonable.

Mr G didn't agree with the investigator's view and asked that an ombudsman review the complaint. He said he hadn't stated the keys weren't in the vehicle when it was stolen, and he never left the vehicle unattended. His vehicle was also a performance model, so needed time [for the engine] to reach operating temperature (Mr G wanted to show the vehicle at its best). He also said the man came with the intention of stealing the vehicle, so it wouldn't have mattered whether the keys were left in the vehicle or not (he could have used physical force to steal the vehicle). Mr G also provided an update from the police, who said they were investigating him for several offences.

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.

I'd first want to say I appreciate what Mr G has told us about the impact the theft of his vehicle has had on him and his family. Having a vehicle stolen is inherently distressing and stressful, more so in the circumstances Mr G has described. While I understand the man has subsequently been caught, I recognise this won't change the impact the theft has had on Mr G and his family. But my role here is to decide whether Aviva acted fairly towards Mr G.

The key issue here is whether Aviva acted fairly in declining Mr G's claim for the theft of his vehicle. Mr G says he didn't step into his property to check on his children and that the porch was close to the vehicle and the man was within his line of sight. Aviva say Mr G left the vehicle unattended with the keys inside and the engine running. So, the claim wouldn't be covered due to the policy exclusion for loss where a vehicle is left unattended (with the keys inside and the engine running).

As Aviva have applied a policy exclusion, I've first considered the relevant wording referred to by Aviva. They refer to policy wording that says [Aviva] won't pay for:

"Loss or damage arising from theft while:

- Your car's ignition keys (including any key, device or code used to secure, gain access to, or to enable your car to be driven) have been left in or on your car*
- Your car has been left unattended with the engine running."*

The same wording also appears under the *What is not insured?* heading in the IPID.

I think this wording is clear. Looking at the circumstances of the theft, as described by Mr G, while he disputes Aviva's view he went back into the property to check on his children, in his complaint to this service he says he went into the porch (at the front of the house) to change his footwear. And he says he started the engine to enable the man to see the engine running. I understand why he would do this (to demonstrate to a potential purchaser the running of the engine) and that the performance nature of his vehicle meant it would take longer to reach operating temperature. But it does mean the vehicle's engine was running, with the keys left inside (to start the engine) and – the point about the performance nature of the vehicle – left running longer than would a non-performance model.

Mr G says the porch was only a few metres from the vehicle, and the man was in his eye line the whole time. And he never left the vehicle 'unattended'. Looking at the photographs provided by Mr G, I accept it's the case the vehicle was only a few metres from the porch. However, despite the short distance between the vehicle and the porch, the man was able to

get into the vehicle and drive away. While Mr G didn't give permission for the man to get into the vehicle, I don't think this is relevant in this case, where the man stole the vehicle. And while Mr G says the vehicle wasn't left 'unattended', his returning to the porch provided the opportunity for the man to get into the [unlocked] vehicle and drive away (as the keys were inside and the engine running). So, I've concluded these circumstances would reasonably be considered to mean the vehicle was unattended.

I've also thought about Mr G's point that the man came with the intention of stealing the vehicle, so it wouldn't have mattered whether the keys were left in the vehicle or not (he could have used physical force to steal the vehicle). And the police say they were investigating him for several offences. I don't doubt this is likely to be the case. But it doesn't change the fact the vehicle was left unattended, with the engine running and keys in the vehicle. I have to consider the circumstances of the case as they happened – not what might otherwise have happened.

Similarly, I've looked at the other decisions of this service in cases of vehicle theft, including ones where the vehicle was considered by the insurer to have been left unattended (and/or with the keys inside, or where deception was involved). But we consider each case on the specific circumstances involved. And as I've set out above, I think Aviva acted reasonably in applying the exclusion to decline the claim.

I've also noted what Mr G told us about his efforts to follow the stolen vehicle and making the police aware immediately, as well as the difficulty the man would have had to manoeuvre the vehicle out of the driveway and make off with it. But this doesn't change the fact the vehicle was left unattended with the engine running and the keys inside, enabling the man to steal it.

Taking all these points into account, I've concluded Aviva acted fairly and reasonably in line with the policy exclusion and terms and conditions when they declined Mr G's claim. I recognise this will be disappointing to Mr G, and I don't doubt the impact the theft has had on him and his family. But I can't conclude Aviva have acted unfairly or unreasonably in the circumstances of the case.

On the issue of the £200 compensation awarded by Aviva for the time they took to reach a decision, Mr G says he would be content with the sum (for the lack of communication). Looking at the circumstances of the case, I agree the sum is fair and reasonable. So, I would expect Aviva to pay the compensation to Mr G (if they haven't already paid it).

My final decision

For the reasons set out above, my final decision is that I don't uphold Mr G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 September 2023.

Paul King
Ombudsman