

The complaint

Mr H complains his insurer, U K Insurance Limited trading as Churchill (UKI), has unfairly declined a claim for a stolen car under his motor insurance policy.

What happened

Mr H says when he left for work on the morning of 1 June 2022, he noticed his car wasn't parked where he left it – which was a short distance from his address. He says he contacted the police to report his vehicle as stolen after returning home from work that evening.

When he spoke to UKI, Mr H said there wasn't any debris on the floor or signs of broken glass where his car had been parked. He explained he'd bought the car using cash and didn't have the seller's details. Nor could he provide proof of purchase or photographs of the vehicle.

Mr H said he only had one key for the vehicle which was still in his possession as it was inside his house. The key was subsequently shared with UKI.

In August 2022, UKI declined Mr H's claim saying it wasn't satisfied the incident happened as alleged or that the claim met the terms and conditions of the policy. In reaching this decision UKI said: the key supplied by Mr H didn't relate to the insured vehicle; the vehicle couldn't have been stolen by way of relay theft; the key couldn't be cloned and wasn't vulnerable to other theft methods.

UKI added that as it wasn't covering the claim, it could pursue Mr H for the costs it had paid to date relating to the incident – and so, it would be seeking to recover the hire charges it incurred.

Unhappy, Mr H brought a complaint to this Service. He said it's impossible for him to prove the car was stolen as there weren't any witnesses. He reiterated that he'd only been given one key when he purchased the car. He said he didn't report the car as stolen until the evening as he was concerned about being late for work.

An Investigator considered it and said she thought it was reasonable for UKI to decline the claim but that she wasn't persuaded it had shown the fraud condition applies – and so, she recommended UKI remove this.

UKI replied providing further information including evidence which showed the key fob hadn't been used for five months prior to the car allegedly being stolen – meaning the vehicle's last use pre-dated the start of the policy. It added that Mr H's version of events hadn't been consistent.

Our Investigator asked Mr H for further information, but this wasn't forthcoming. And so, on the evidence she did have, concluded UKI had fairly relied on the fraud condition to decline Mr H's claim.

Because Mr H disagreed the complaint has been passed to me for an Ombudsman's

decision.

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, I'm not upholding this complaint and I'll explain why.

As the policy holder Mr H must show that on the face of it, something happened which might be covered under the policy. Here, Mr H has reported his car as stolen to the police and UKI. Having done so, the onus switches to UKI who then are responsible for validating the claim and explaining – if applicable - why it's not liable for covering it.

Here, UKI has invoked the fraud condition to decline the claim saying the theft of Mr H's car couldn't have happened as he's alleged and there are inconsistencies with his version of events.

The policy terms and conditions say: *"We will not pay a claim that is in any way fraudulent, false or exaggerated. If you, any person insured under this policy or anyone acting on your behalf attempts to deceive us or knowingly makes a fraudulent, false or exaggerated claim:*

- *your policy may be cancelled;*
- *we may reject your claim and any subsequent claims;*
- *we may keep any premium you have paid."*

It's important to explain that I'm not determining whether Mr H has acted fraudulently - rather I need to consider whether UKI has acted fairly by relying on the fraud condition to decline his claim. For UKI to rely on this condition, it needs to show it is more likely than not the condition was breached. So, I've looked at the evidence provided to decide this.

Is the key fob the correct key for Mr H's car?

Mr H said he retained the one key fob he'd been given at the time of purchasing his vehicle. And it seems Mr H considers himself to have provided UKI with the correct key.

As part of its investigation, UKI arranged for a key specialist to forensically review the key fob's data. The specialist report showed the key fob didn't match Mr H's vehicle – it was instead for a vehicle of a different model. And the expert's opinion was that the key fob wouldn't work with Mr H's vehicle.

The data also showed the key fob was last used five months prior to the vehicle being reported stolen and was instead connected to another vehicle which had been reported as stolen earlier on in 2022. It's reasonable to assume that if the key fob was for Mr H's vehicle, the data would show it had last been used the evening before - as Mr H said he'd driven it the night before. But five months prior is before the policy had even started. And so, I can see why UKI had concerns about the accuracy of Mr H's account of events when such a discrepancy exists.

UKI has also provided evidence to show the mileage on Mr H's car at its last MOT differed to the mileage recorded on the key fob.

The key specialist also explained Mr H's vehicle couldn't have been stolen using the "relay

method” because according to its vehicle specification it’s not equipped with advanced keys – which is required for a relay method theft.

Whilst the *key fob* is an advanced key, it’s not coded for the insured vehicle – thus further supporting the position that the key Mr H submitted is not associated with Mr H’s vehicle. The expert added that the key fob cannot be cloned and isn’t vulnerable to a code grabber – another means in which cars are stolen.

Whilst I appreciate Mr H considers himself to have given an accurate account of what happened, I can’t ignore the overwhelming evidence supplied by the key specialist which, in my opinion, shows the key fob Mr H supplied isn’t the key for the insured vehicle.

Mr H hasn’t provided an explanation as to why the key doesn’t match the insured vehicle other than to say it could have been “mixed up”. Given the inconsistencies in his testimony and the detailed and comprehensive expert findings, I’m not persuaded Mr H has given UKI an honest and full account, and so I consider it reasonable for UKI to have concluded that Mr H has dishonestly represented his claim. And so, I’m satisfied UKI has acted fairly by declining Mr H’s claim on the basis the fraud condition was breached.

Customer service

I understand Mr H’s frustration at having had to wait a few months for UKI to reach a decision on his claim, but it’s reasonable that UKI would need to carry out a thorough investigation given the serious implications. And as this included obtaining expert evidence, things took longer. From what I’ve seen, I’m satisfied there hasn’t been any avoidable delays and so, I won’t be asking UKI to pay compensation.

I’m aware Mr H was also unhappy he’d been asked to continue paying premiums even though the claim had been declined. UKI has apologised for its error and returned the premiums to him - which is what I’d expect it to do.

Mr H also complained about the time it took UKI to return the key fob to him. Our Investigator shared with Mr H that UKI returned the key in August 2022 and provided the tracking reference details. UKI has recommended Mr H get in touch with his local sorting office if he still hasn’t received it. From what I’ve seen, UKI has taken the necessary action to return the key and did so promptly, and so, I won’t be asking it to do anything else in respect of this.

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 Mr H to accept or reject my decision before 9 August 2023.

Nicola Beakhust
Ombudsman