

## The complaint

Mr R complains that U K Insurance limited (UKI) declined his claim on his motor insurance policy.

## What happened

Mr R said his car was vandalised whilst it was on his driveway and parts were stolen. It was deemed to be a total loss. UKI investigated the claim and thought Mr R wasn't being entirely honest about the claim circumstances. So it declined the claim and said it would cancel the policy.

### *our investigator's view*

Our Investigator recommended that the complaint should be upheld. He thought the evidence UKI had relied on to decide that the claim was fraudulent was mostly conjecture. He thought UKI may have mixed up the keys Mr R sent in for analysis. So he thought UKI should reconsider the claim under the policy's remaining terms and conditions and, if an award was made, it should add interest to this.

UKI replied that the number of issues with the claim justified its decision and it said Mr R had changed his story to suit. It restated its reasons for declining the claim.

### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mr R and to UKI on 6 October 2023. I summarise my findings:

I could understand that Mr R felt frustrated that UKI declined his claim. He helpfully provided detailed responses to UKI's concerns about his claim. And I considered these alongside UKI's submissions.

Our approach in cases like this is to consider whether the insurer's acted in line with the terms and conditions of the policy and fairly and reasonably. UKI relied on a General Condition of the policy to decline the claim:

#### *"9. Fraud*

*You must be honest in your dealings with us at all times. We will not pay a claim that is in any way fraudulent false or exaggerated.*

*We will not pay a claim that is in any way fraudulent, false or exaggerated."*

I thought this was a common exclusion in motor insurance policies and I didn't find it unusual. And I thought it was sufficiently brought to Mr R's attention in the policy documents for UKI to rely on it.

In all cases we deal with, we need to try to establish what was more likely to have happened on the balance of probabilities, based on the available evidence. And this is no different with fraud cases. While fraud is a serious allegation, and potentially a criminal offence, the test is still whether it is more likely than not that the consumer committed fraud. So UKI needed to provide evidence that it was more likely than not Mr R had made a fraudulent claim.

UKI had a number of concerns about the claim. And I considered these, the evidence provided and Mr R's responses.

*Mr R wasn't alerted to the theft either by the car's alarm or its tracker.*

The parts theft took place during the evening or overnight. Mr R said he had a number of guests at the time and the room they met in was at the back of the house. So he thought they would have been unlikely to have heard the alarm if it had sounded. Mr R also said that his tracker app was set for his previous car and hadn't been activated for his current car. He offered to provide evidence that he had reported this to the dealer for remedy. But Mr R had earlier said that the app alerted him when the car's doors or windows were left open. So I was not persuaded by his account.

*The thieves had time to remove parts and also cut additional cabling without being detected.*

UKI obtained an engineer's report on the parts removed. It noted that some wires had been cut possibly to sabotage the car's electronic data. UKI thought this would have added to the time it took to complete the theft and so increased the likelihood of detection.

UKI also thought the car may have had multiple faults and was possibly not driveable. I didn't see evidence that these faults existed before the theft and the damage to the wiring. Mr R said he'd driven the car earlier and offered to provide a witness to support this. I couldn't see that UKI followed this up, but as the witness was a relative I couldn't say that his testimony would be independent. So I thought it was reasonable for UKI be concerned about why the thieves had taken the time to cut wires unconnected to the theft of parts.

The car was parked outside Mr R's house below his bedroom window. But I couldn't see that it had been established that the theft took place after Mr R went to bed. Mr R explained that he has sensor lights at the front of the house. But his view of the car would have been obscured by furniture in the bedroom window.

UKI thought the house's location on a busy road would have made it unlikely for the theft to occur as Mr R described. I could see that the car was parked facing the house and between two other cars. So this could have obscured the thieves from view. But Mr R had a house full of guests at the time. And I thought it was reasonable for UKI to conclude that it was unlikely that thieves would have had the time to remove the parts and cut extra wires without detection.

*There was no indication of forced entry.*

Mr R said he'd last used the car early in the evening and he was sure he'd locked it. Mr R told UKI's investigator that at night the key was stored in a foil pouch under the stairs. But, after the claim was declined, he said it was kept in a bowl by the front door. Mr R later explained that he moved the key to the pouch at night when he went to bed. But I thought it was reasonable for UKI to regard this as a change in Mr R's story.

UKI's engineer said the car was subject to relay theft so this could have been possible if the keys were in the bowl near the house door. UKI raised the question that if the thieves were able to access the car (they had to open the bonnet from inside the car) why hadn't they stolen the car itself, if it was drivable? So I thought the change in story, the lack of a forced entry and the theft just of parts were reasonable concerns.

*CCTV footage wasn't provided by a neighbouring garage.*

Mr R explained that the footage was only kept for 30 days so it wouldn't have been available when UKI's investigator asked to see it. I noted that Mr R, in his statement, said the cameras weren't focused on his property but the investigator saw that they were. I didn't think it was reasonable for UKI to hold Mr R responsible for any lack of co-operation from the garage. But I thought this was another valid concern.

*One of the keys Mr R provided was for a different car.*

UKI found that the spare key was programmed to another car stolen and unrecovered some years earlier. No explanation was provided about how Mr R would have had access to this key. I thought it was unlikely that a reputable dealer would have provided Mr R with a stolen key. And UKI provided evidence that the two keys were kept together after the recovery, albeit several agencies had control of the keys for some time after the car was recovered.

Mr R firstly said that the recovery agent checked that both keys activated the car. But he later said the battery in the spare key had been removed when the battery in the main key was flat. So the agent couldn't have checked it without inserting a battery, and Mr R didn't mention this at the time. So I thought it was likely the stolen key was in Mr R's possession and it was reasonable for UKI to be concerned about this.

*Mr R's GAP insurance was due to expire shortly.*

Mr R explained that he wasn't aware that he had GAP insurance. He explained that this came to light after the theft. But this was different from what he'd told UKI's investigator. He explained that the GAP insurance was transferred from his previous car for free by the same seller. So I was persuaded that Mr R would have known that this was in place.

Mr R's car had pre-existing damage that hadn't been repaired and this would make returning the car at the end of the lease costly. Mr R explained that he had plans to deal with this. But, given Mr R's recent missed payments and what he told its investigator about not making the repairs, I'm satisfied it was reasonable for UKI to think this wasn't credible.

### *Conclusion*

I was satisfied that UKI had a number of reasonable concerns about the theft circumstances. Given the number and seriousness of these concerns, I was satisfied that it was more likely than not that the theft of the car's parts didn't take place as Mr R had described. And it followed that I was satisfied UKI reasonably declined Mr R's claim in keeping with the policy's terms and conditions.

Subject to any further representations from Mr R and UKI, my provisional decision was that I intended to not uphold this complaint.

### **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.

UKI didn't respond to my provisional decision. Mr R provided detailed responses to the points listed above. He thought UKI's concerns were conjectures or misinterpretations of what he had told its investigator. Mr R said UKI hadn't sent him a copy of his statement of the interview with its investigator to check it for any inaccuracies. But I think Mr R has had ample opportunity to respond to UKI's concerns.

As I've said above, I need to try to establish what was more likely to have happened on the balance of probabilities, based on the available evidence.

Mr R provided screenshots to show the car's journeys on the days preceding the theft. But he hasn't explained why these hadn't been provided to UKI sooner to show that his car had been driveable. Mr R said the car couldn't have been stolen as it had been blocked in by a visitor's car at the time. But in his statement he said he'd parked his car on his driveway next to the visitor's cars. So I'm not persuaded that the car was blocked in.

Mr R said the recovery agent had tested both keys and then taken them. He thought the keys may have been mixed with another key after the recovery. But I think it's unlikely that the recovery and storage agents would have in their possession a key from a car stolen some years earlier in another part of the country. Mr R said he hadn't repaired his car's

damaged door due to a lack of parts. This is different to his previous explanation that it was due to cost.

So I am still satisfied that UKI has a number of reasonable concerns about the theft circumstances. Given the number and seriousness of these concerns, I am still satisfied that it is more likely than not that the theft of the car's parts didn't take place as Mr R has described. And it follows that I am satisfied UKI reasonably declined Mr R's claim in keeping with the policy's terms and conditions.

### **My final decision**

For the reasons given above, 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 R to accept or reject my decision before 7 December 2023.

Phillip Berechree  
**Ombudsman**