

The complaint

Mr F complains that Hiscox Insurance Company Ltd (Hiscox) unfairly declined a claim made against his insurance policy after his bicycle was stolen.

What happened

In April 2023 Mr F said his bicycle was stolen from his locked garage. He reported the theft to the police and claimed for the loss against his cycle insurance with Hiscox. But Hiscox declined his claim. Mr F complained to them.

Hiscox said they declined Mr F's claim under the exclusion that the theft wasn't as a direct result of violent and forced entry or exit from his garage.

Mr F wasn't happy with Hiscox response, he said there were ways of getting into his garage that wouldn't show any visible damage. And gave the examples of the use of an electronic hacking device or by the insertion of a metal coat hanger. He referred his complaint to us.

Our investigator said that Hiscox hadn't acted unfairly by relying on the exclusion to decline Mr F's claim.

Mr F didn't agree, he said that his garage most likely was opened with the use of an electronic device, which Mr F considered a forced entry. He asked for an ombudsman to decide.

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 can understand Mr F's frustration at the situation he is in as he's found himself not covered for a loss of over £3,000. I know this will disappoint Mr F but I'm not upholding his complaint. I'll explain why.

For an insurance claim to be successful, the policyholder must show they have a valid claim, meaning an insured event happened that caused them damage or a loss. Insurable events are listed in the policy and reflect the fact that no policy covers everything that might happen. Only damage or loss caused by one of the one-off perils (or events) listed in the policy will be covered. If the damage or loss can be shown to be caused by such an event, then the insurer must pay the claim unless they're able to rely on one of the policy exclusions to decline it. And in this case the event covered under the policy is theft, but Hiscox has relied on one of the policy exclusions to decline the claim.

The exclusion in the policy that Hiscox has relied on says:

"the cycle and accessories are contained within a lockable outbuilding or garage which is within the boundaries of your private dwelling and the normal security protections are fully operative and in force and the theft is a direct result of violent and forcible entry to or exit from the outbuilding or garage by the thieves"

Hiscox said the theft wasn't "*a direct result of violent and forced entry or exit*". Mr F has given a couple of examples as to how a garage door can be opened, one by prying open the garage door with a wire coat hanger, the other by means of an electronic device. And it's this that Mr F has relied on to explain how his bicycle was taken from his garage, which he says shows the exclusion has been unfairly applied.

Some insurance policies simply cover theft, some only cover theft if force or violence has been used to gain access to or exit from the property and some only cover theft if force and violence has been used to gain access to or exit from the property.

I've considered the terms of the contract of insurance Mr F had with Hiscox. And I can see the policy term is "*violent and forced*"

The exclusion term relied on by Hiscox is intended to make sure the insurer only has to pay claims where a policyholder's property has obviously been broken into. Insurers use this term to avoid the risk of paying claims where a theft has occurred as a result of the policyholder not properly securing the property for example, where a door or window has been left open, allowing the thief to get in and out without having to actually break into the property or cause any damage.

The courts have considered the question of what constitutes forced and violent entry in a number of cases – and I've reviewed the relevant case law. One important judgement said both force and violence could be involved where entry was gained by "*the exercise of force in a manner that was not customary in order to overcome the resistance of the usual fastenings and protections in the premises*."

So, while I understand it's plausible for undetectable methods to be used to open a garage door. The crucial point will be the theft will need to be consistent with evidence to show that security systems have been overcome by unnatural means.

It's not unusual for me to need to decide a case where it's simply not possible to know exactly what happened. While I don't think it's for Mr F to prove his garage was broken into using force and violence. The absence of this evidence doesn't make it unreasonable for Hiscox to assess the claim based on the evidence they had. So, I've considered whether their assessment of Mr F's claim based on the evidence they had was unfair.

I know my decision will disappoint Mr F but I don't think it was as unfortunately, I haven't seen anything that would corroborate Mr F's suggested methods of entry into his garage. I can see that Mr F reported the loss of his bicycle to the police and he's provided a crime reference number. But I can't see that the police visited Mr F's property or that they did a police report. And so haven't commented on the likelihood of these methods being the cause of the break-in.

Mr F's testimony is that there had been a spate of break-ins to garages and outbuildings in his area, and that a neighbour's garage had been broken into. While this may show that it's more than likely his bicycle was stolen, I haven't seen any evidence that shows Mr F's suggested methods used to gain entry into his garage were the likely method used at the other break-ins.

There isn't any detectable damage or other evidence to show how thieves got into Mr F's garage. And so based on the evidence Hiscox considered I don't think that force and violence was evident. So, I can't see how Hiscox could have reached a conclusion other than that force and violence wasn't used. So, I don't think Hiscox has acted unfairly.

My final decision

I don't uphold this complaint.

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

Anne Scarr
Ombudsman