

The complaint

Mr R complained that Alwyn Insurance Company Limited wouldn't pay his theft claim under his motorcycle insurance policy

What happened

Mr R's motorcycle was stolen but Alwyn wouldn't pay his claim. They said he'd failed to meet the policy conditions about his motorcycle's security and so their policy exclusion about that applied. Mr R accepted that he hadn't used the security devices the policy required. But he said the exclusion shouldn't apply because his motorcycle wasn't unattended. He said he was in a friend's first floor flat and his motorcycle was parked where it could be seen from the window. He said his friend saw the thieves interfere with his motorcycle and Mr R challenged them and went outside but the thieves broke the steering lock and towed it away.

So Mr R felt that he had complied with the policy requirements. Alternatively he felt that that the meaning of "unattended" in the policy exclusion was not clear and so it was unfair for Alwyn to rely on it.

Our investigator didn't recommend that Mr R's complaint should be upheld. He thought that Alwyn had acted reasonably and in line with Mr R's policy terms. Mr R remained dissatisfied and so his case was passed to me 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've listened to the recording of the call when Mr R reported the theft. He said he'd secured his motorcycle with a steering lock, and it also had a factory fitted immobiliser. But Alwyn declined the claim because it wasn't secured with a D-lock, disc lock, grip lock or armoured chain. They said these were their clearly stated policy security requirements.

I've looked at Mr R's policy which says on page 5 in Exclusion 2a that it doesn't cover motorcycle loss from theft while the motorcycle "*was unattended (including while at your home or its other normal place of garaging) without being secured by the security devices fitted to and carried on it and by any other security specified in the schedule or by endorsement*".

Mr R's policy schedule says:

'Vehicle Security

'Whenever your bike is left unattended (including while in a locked garage) cover against theft will only apply if the bike is secured as specified in the endorsement(s) below. As a minimum this will be one of at least a disc lock, D-lock, grip lock or armoured chain, plus any other lock on the bike (eg the steering lock).'

The endorsement below states:

'L3: With reference to Exclusions 2a of Cover sections 1 and 2, the security required to cover to apply to loss or damage by theft or attempted theft is as follows. If all this security is not in operation when the insured motorcycle is left unattended (including while in a garage), such cover will not apply.

- 1. A D-lock, disc lock, Grip lock or lockable armoured chain; plus*
- 2. Any other security device fitted to or carried on the insured motorcycle; plus*
- 3. Any other measure as specified in any endorsement.'*

The security obligations and cover exclusion are also in the statement of facts, and the Insurance Product Information Document.

So I think that Alwyn made it clear to Mr R that cover for theft was excluded unless his motorcycle was secured with a D-lock, Disc lock, Grip Lock or armoured chain if it was left unattended.

I've also listened to the recording of the call when Mr R renewed his policy. The agent clearly tells Mr R that if the motorcycle is stolen and it's not secured with a D-lock, disc lock, Grip lock or lockable armoured chain, that can invalidate a claim. Mr R bought the policy. And so I'm satisfied this requirement was drawn to his attention when the policy was sold.

Mr R accepts that when the bike was stolen it didn't have the policy's required security requirements. But he said his bike was not unattended, so the exclusion didn't apply. Alternatively, he said that because the policy didn't define unattended, he couldn't have been expected to know what that meant, and so it wasn't fair for Alwyn to rely on the exclusion.

The investigator explained the approach we take. We look at where a vehicle was when it was stolen and whether the driver was in a position to deter the thief or make a theft unlikely to take place. Mr R says that he was able to see his motorcycle from his friend flat's window, it was constantly in his sight, and he tried to stop the theft it but was too late. But, in the recording of Mr R's call reporting the theft, he said that his friend heard something, looked out of the window and saw the thieves at Mr R's motorcycle, and told Mr R. So I don't think that Mr R was then close to the motorcycle or was in a position to intervene or deter the thief. He was indoors, upstairs and was visiting his friend. I don't think that it would be fair or reasonable to treat that as him attending his motorcycle.

Mr R also says that Alwyn didn't define unattended in their policy so he couldn't be expected to know what it meant. And as that was unclear, the exclusion shouldn't be used against him. He said he'd looked up another insurer's definition of unattended. But, as the investigator explained, it's not reasonable to look at what another insurer says. Mr R took out a policy with Alwyn, and it's their terms that apply to him, not that of another insurer. I don't think his motorcycle was attended at the time of the theft. I think that it was unattended and so the security measures that were clearly stated in the policy should have been used. And so I think that Alwyn were entitled to reject his claim.

I think Mr R having his bike stolen was a very unfortunate event and I do understand why he is upset by it and by Alwyn's decision. But I have to look at whether Alwyn have done anything wrong, and for the reasons I've said above, I don't think that they have. This means that I don't ask them to do anything else.

My final decision

For the reasons I've discussed above it's my final decision 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 23 February 2021.

A handwritten signature in blue ink that reads "R. Scott". The letter "R" is large and stylized, followed by a period and the name "Scott".

Rosslyn Scott
Ombudsman