

## The complaint

Mr S has complained that MCE Insurance Company Limited turned down his claim under his motorcycle insurance policy following the theft of his motorcycle.

## What happened

Mr S renewed his motorcycle insurance policy with MCE in August 2020. His motorcycle was stolen in December 2020 and he made claim under his policy. MCE checked to see whether he had a certificate proving his motorcycle was restricted to a maximum net power of 35 KW or less. This was because Mr S's licence only allowed him to ride motorcycles up to this power and the V5 for his motorcycle said it had a maximum net power of 55 KW.

Mr S said the motorcycle had been restricted, but he couldn't provide a document to prove this. So MCE told him it was avoiding his policy on the basis he'd failed to take reasonable care not to make a misrepresentation when he renewed his policy. And that this meant it wouldn't be settling his claim. Mr S complained and MCE decided it wasn't going to avoid his policy, but it still refused to pay his claim on the basis that he hadn't provided evidence to show his motorcycle was restricted.

Mr S asked us to consider his complaint against MCE. One of our investigators did this and said MCE should pay Mr S's claim and pay him compensation for distress and inconvenience. This was on the basis that Mr S hadn't told MCE when he took out the policy that he had a certificate proving his motorcycle was restricted. And - in view of this - it wasn't fair for MCE to turn down his claim because he couldn't provide one.

MCE doesn't agree with the investigator and has asked for an ombudsman's decision. It's argued Mr S agreed to receive limited information about the policy when he renewed it over the telephone. And from what it's said, I assume MCE thinks he should have realised when he read the policy documentation that he'd need proof of the fact his motorcycle was restricted.

## 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.

For me to be satisfied the fair and reasonable outcome is for me to allow MCE to refuse his claim, I need decide its entitled to rely on the policy terms to turn down his claim. And I don't think it is.

In its final response letter to Mr S, MCE referred to the following which appeared on the first page of the Insurance Product Information Document (IPID) sent to Mr S after he agreed to renew his policy:

*There is no cover if any permitted rider is using a vehicle which doesn't meet the terms of their licence (E.g. an A2 motorcycle licence holder riding an unrestricted bike or a bike over 35kw/47bph)*

This document is a summary of the cover and details only the main characteristics of the policy; it is not the policy document. I've looked at the policy document and this term isn't in it. So, I assume MCE is referring to the following which appears in the section of the policy entitled *General Exceptions Applying to All Sections Of The Policy*:

*Any accident, injury, loss or damage while any motorcycle insured under this policy is being:*

*Ridden by you unless you hold a valid licence and CBT certificate (if applicable), for the vehicle insured and not disqualified from holding or obtaining such a licence.*

Mr S wasn't riding his motorcycle when it was stolen, so I don't think MCE is entitled to rely on this exception to reject his claim. And he wasn't using it at the time, so the term in the IPID isn't relevant either.

And I can't find another policy term that it would be reasonable for MCE to rely on to reject Mr S's claim. In its response to the investigator MCE has suggested that when he spoke to its adviser to renew his policy Mr S was told that in the event of a claim he'd be required to provide MCE with acceptable proof of the relevant documents. And it's said if Mr S had read the terms of his policy, he'd have been aware of the term on page 12.

I've listened to a recording of this call and Mr S was indeed told he'd be required to provide MCE with acceptable proof of the relevant documents. But he was never told what the relevant documents were. And I can't find anything on page 12 of the policy document that would give MCE the right to reject Mr M's claim. There is a policy condition on this page which says the policyholder may have to provide documentary proof of their licence, convictions and claims details, but this doesn't mention they may need to provide a document to prove that the insured motorcycle has been restricted. So what MCE has said in response to our investigator doesn't alter my view that it isn't entitled to reject Mr S's claim.

And - even if there was a policy term that required Mr S to provide a certificate or some other proof that his motorcycle was restricted, I still wouldn't think it fair and reasonable for MCE to rely on it to reject his claim. This is because at no point in the renewal process, or - as far as I know - prior to this, did MCE ever tell Mr S he'd need this proof. It only told him when he made a claim and at this point it was too late. Mr S did try to get proof from the person who sold him the motorcycle after it was stolen, but he couldn't get hold of them.

Had MCE told Mr S he needed a certificate when he renewed his policy or when he took it out, he could have taken the motorcycle somewhere, had it checked and got a certificate. Or he could have bought a different policy. So I think it's very unfair of MCE to now expect Mr S to provide this proof when his motorcycle is no longer available.

In summary, I don't think there is a policy term or another reason which gives MCE the right to reject Mr S's claim.

### **Putting things right**

For the reasons set out above, I think as part of the fair and reasonable outcome to this complaint MCE should settle Mr S's claim in accordance with the claims settlement terms in the policy.

I also agree with our investigator, that MCE should compensate Mr S for the distress and inconvenience he's experienced as a result of having his claim turned down and being without a motorcycle for a period of time because of this. I agree £200 is fair and reasonable compensation for this.

### **My final decision**

I uphold Mr S's complaint and require MCE Insurance Company Limited to settle his claim for his stolen motorcycle in accordance with the claim settlement terms in his policy. I also require MCE Insurance Company Limited to pay Mr S £200 in compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 21 December 2021.

Robert Short  
**Ombudsman**