

The complaint

A company, which I'll refer to as T, complains that Zurich Insurance PLC (Zurich) unfairly declined its claim for the theft of a vehicle under its Motor Fleet insurance policy.

While there are a number of parties involved in this complaint, for ease of reading, I'll only refer to Zurich and T.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

T took out a Motor Fleet insurance policy. In September 2023, T's employee drove one of the insured vehicles to a livery yard, where the vehicle was stolen by thieves. T made a claim to Zurich for the theft, but they declined the claim.

T said the vehicle was in a car park and it was locked. The vehicle keys were left in a tack room, on a table. T's vehicle was stolen from the car park by thieves, along with another vehicle and damage had been caused to others too. The vehicle keys were also missing from the tack room. It is believed that the keys were used to steal the vehicle. The tracker fitted to the vehicle was removed and later discovered nearby.

Zurich declined indemnity on the basis that the keys to the vehicle had been left on a table in an open area whilst the driver attended to their horse. Zurich said the keys were not securely stored and so they relied on a policy exclusion which specifically related to this to decline T's claim.

T argues that the thieves had to trespass on to the property, and enter a building, in order to take the keys and subsequently steal the vehicle. It said the keys were over 50 metres away from the vehicle and inside a property. T believes it took reasonable effort to secure the keys away from the vehicle and therefore its claim should be met by Zurich.

Our Investigator looked into the case, but he didn't think the complaint should be upheld. He said there was an exclusion in T's policy which applied to the circumstances of the claim. He thought it was reasonable for Zurich to find that the keys weren't safely stored, and so he was satisfied that it was fair and reasonable for Zurich to rely on the policy exclusion to decline T's claim.

T didn't agree, so because no agreement has been reached, the complaint has been 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.

Both parties have provided detailed submissions to support their position. I want to assure

them I've read and carefully considered everything they've said, but I won't comment on everything.

T feels strongly that its claim should be accepted. It says that the car was parked away from the keys inside a gated property and was locked and secured. The thieves trespassed onto the property, stole the keys and took the vehicle. The theft was reported to the police, who treated it as a burglary. T says the keys were securely stored and out of sight of the public, the claim should therefore be accepted by Zurich.

When making an insurance claim, it's the policyholder's (T's) responsibility to show that an insured event has occurred and caused a loss. If the policyholder has shown, or the insurer agrees that an insured event has occurred and caused a loss, the onus switches to the insurer. It should either accept the claim or show that the loss isn't covered. One of the ways it can do this is by showing that an exclusion applies. An exclusion is a term in the insurance policy which specifies that something is not covered.

Zurich seems to have accepted that an insured event (the theft) occurred. It is also not in dispute by either party that the vehicle keys were used to steal the vehicle. However, Zurich have declined T's claim because of an exclusion which states that Zurich will not provide cover for:

“ Loss or Damage to your vehicle if it is unoccupied and any of the following applies:...

- iii) If the keys of your vehicle are not securely stored e.g. if they are stored or placed in any location or premises to which the public has access or are displayed in view of the public;...”

Zurich have relied on the above exclusion to decline T's claim. They believe the keys to T's vehicle were not securely stored. They say this because the keys were left on a table, in a tack room, which anyone could access.

T says the exclusion doesn't apply in the circumstances of this theft. T argues that the car park, where the vehicle was stolen from, has electric gates, as well as a latched pedestrian gate to access the tack room. T also argues that the livery yard is a private property and there is no public access. T points out that the thieves had to trespass onto the property and the police have deemed this to be a burglary.

The exclusion relied on by Zurich, gives an example of what is not covered. For example, if the keys are stored or placed in any location or premises to which the public has access or are displayed in view of the public. I agree with the Investigator that is merely one example and is not an exhaustive list of every scenario that could apply under this exclusion. T has argued that they weren't displayed in the view of the public. I'm not entirely persuaded by this, because they were still left on an open table for anyone entering the room to see. In any event, even if I was to accept they weren't in the view of the public, I'm persuaded they were placed in a location where the public had access, which is also excluded. I'll explain why.

T says the livery yard was private property, however I agree with the Investigator that it would be used by a number of different people and I've not seen any evidence of any locks in use, where keys, or any other means of entry, would be required in order to gain access to the property. I'm therefore persuaded that the public did have access to the room the keys were stored in because anyone could walk in.

I appreciate that T says the property is gated and the tack room has had a latched gate, however, for the reasons explained above, these can both be opened by anyone and doesn't

restrict who can enter the premises.

I have thought about the circumstances of this case very carefully, and I understand this will come as a disappointment to T, but for the reasons above, I'm not persuaded that the keys were securely stored. I think it therefore would be fair to conclude that the exclusion above can reasonably apply here.

Taking everything into account, I think that Zurich's decision to decline the claim, based on the exclusion they relied on, was fair and reasonable. I understand that this won't be the outcome that T would've liked but, currently, I can't reasonably ask Zurich to do anything further to resolve this complaint.

T also said it was unhappy that Zurich got some of the detail about its complaint incorrect when initially investigating the claim. For example, it referred to a different location, an incorrect business description for the premises where the theft occurred, and they incorrectly quoted the number of vehicles involved in the incident. Zurich has accepted they made an error and has explained how this error occurred and apologised for it. I'm satisfied with Zurich's response here, and it doesn't change the outcome of the claim decline, I therefore don't require Zurich to take any further action in this respect.

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 T to accept or reject my decision before 13 January 2025.

Ankita Patel
Ombudsman