DRN-5137350

The complaint

Mr M has complained that The Equine and Livestock Insurance Company Limited, trading as The Insurance Emporium ('Emporium') declined his claim for the theft of a caravan under his caravan insurance policy. For the avoidance of doubt, reference to submissions by 'Mr M' includes submissions made on his behalf by his wife and his solicitor.

What happened

The theft of a caravan was reported to the Police in October 2023. Mr M reported the matter to Emporium, his insurers, and Emporium instructed loss assessors to report on the matter. Mr M initially purchased his policy with Emporium in May 2022, and the policy was renewed in May 2023. The caravan was purchased in or around March 2022. It was registered in Mr M's wife's name, and she had an agreement with a finance company for its purchase.

Mr M said that on or around the day before the theft, his friends had dropped the caravan off to his commercial, secure compound, as the caravan was due to have its tyres replaced. He said that the supplier sent the incorrect tyres, which meant the caravan remained in the compound overnight. The yard was a locked yard with floodlights and operational CCTV. Mr M said he'd fitted the requisite wheel clamps, axle wheel lock and hitch lock to ensure it would be stored safely overnight. It was also positioned in front of the CCTV camera as a further security measure, and Mr M supplied CCTV of the alleged theft. Unfortunately, there appears to be no available police report to shed further light on the fate of the caravan, nor information about the vehicle which towed the caravan away.

Emporium initially declined Mr M's insurance claim on the basis that it considered that the caravan had never been stored at Mr M's address as indicated when he bought the policy and was instead routinely stored at the compound. It subsequently decided that the policy had been void from inception on the basis that Mr M didn't own the caravan and didn't have an insurable interest in it.

Mr M was unhappy with Emporium's response. His wife was continuing to pay under her finance agreement for a caravan that was no longer with them. He said that the situation had caused an immense amount of stress and financial pressure. He wanted the claim to be settled by way of a replacement new caravan of the same make and model as the stolen caravan or an equivalent cash settlement. He also wanted his solicitor's fee to be reimbursed by Emporium.

In the circumstances, Mr M referred his complaint to this service. The investigator initially didn't uphold the complaint; however, he subsequently upheld it as, following the receipt of further evidence from Mr M, he reached the view that the caravan was a *'family asset'*, and that Emporium should have been reasonably aware that [Mrs M was] the registered keeper and the legal owner was the finance company, and that Mr M did have insurable interest.

Emporium didn't agree with the investigator's second view. In the circumstances, the matter was referred to me to make a final decision in my role as Ombudsman. In October 2024, I issued a provisional decision for this complaint and explained why I was minded not to uphold Mr M's complaint as follows.

‘The central issues for me to consider are whether Emporium applied the terms and conditions of the relevant policy in a fair and reasonable in declining Mr M’s claim for theft under his caravan insurance policy, and then in deciding to void the policy. On a provisional basis, I can’t say that Emporium acted in an unfair or unreasonable manner, and I’ll explain the reasons for this provisional decision.

In determining this issue, I’ve carefully considered the submissions of the parties as summarised below. I turn firstly to Mr M’s submissions. Mr M provided a useful and detailed account of the background to the theft. He said that in mid-November 2023, the total loss report by the relevant assessors was shared with him, and this confirmed that Mr M had numerous security measures in place at his commercial premises, all in policy compliance.

Mr M stated that Emporium’s rejection of his claim didn’t set out any allegation of a breach of express obligations under the policy, and he didn’t consider there to be any such breach. He referred to the security requirements in the policy, and these made it clear that a caravan could be stored at a secure compound, with further measures to include the locks, all of which had been used in this case. He therefore said that he’d conformed with Emporium’s requirements. He thought that Emporium had therefore declined his claim on a vague assertion that he’d breached an obligation to report a material fact, without there being any definition of this. He argued that any such term would be unfair under consumer rights law.

As to whether the caravan was routinely stored at the relevant compound, Mr M said that images noted by Emporium to evidence this, predated the policy ‘and are therefore irrelevant’ and didn’t evidence that the caravan was routinely stored at Mr M’s commercial premises. He confirmed that when the caravan was not in use, that it was stored at his home address. He later stated, ‘The caravan is always in use and on the rare occasion it’s not being used by myself, family members or friends with my permission it was parked / stored in the driveway at the risk address stated in my policy approx.1 /2 days a month.’ He explained that the arrangements he had for vehicles at home meant that the driveway could and did accommodate the caravan.

Mr M then referred to Emporium’s enquiries regarding the commercial premises and ‘door-to-door enquiries.’ He said that it hadn’t made introductions, didn’t state a purpose for the enquiries and didn’t obtain names or written statements. Mr M agreed that the theft didn’t appear to be an opportunistic theft however and referenced multiple business use of the premises which included work to caravans. In addition, the local authority had recently removed screening trees and bushes around the site, making it susceptible to organised or targeted thefts.

As for the ownership issue, Mr M said that the caravan ‘is evidently for personal use’ and that his wife was the registered keeper. He said that Emporium had been aware of the ownership details on commencement of the policy and didn’t flag this as an issue at the time. He said that he’d paid half of the finance amount on a monthly basis and so he felt that he did have an insurable interest in the caravan which was purchased as a family asset by a married couple. In addition, he said that he and his wife both owned the company from which the premiums were paid and part of the payment for the caravan had been through a part-exchange of a caravan which they’d owned jointly.

I now turn to Emporium’s submissions in response to Mr M’s complaint. In its final response letter of February 2024, Emporium said that in Mr M’s application for insurance, he’d stated that the caravan would be stored at his home address. It said that as a part of the application process, he’d agreed to comply with the security requirements which detailed the different locations and security that must be in place for the insurance to be valid. Emporium said that it had no appetite to insure caravans within the boundaries of a commercial property ‘due to

the increased risk presented'. As such, if it became aware of such proposed storage at inception, it would decline cover. It considered that the caravan had been stored at the premises and that its stance was supported by the fact that the thieves came readily prepared for the theft with appropriate mechanisms for removing the security devices in place and an appropriate towing vehicle.

Emporium stated that when it reviewed the claim further, it became apparent that the e-mail address and the account used to pay the insurance premium were that of Mr M's business, which matched that of the theft location. Its investigations then showed from online searches that historically, a caravan appeared to have been routinely stored at the commercial premises. It didn't consider that there was sufficient space to store the caravan at the home address, bearing in mind that the driveway was routinely occupied by other vehicles.

Emporium said that in his response to inquiries at the end of December 2023, Mr M had said that when not in use, it was parked at the home address as per the policy. Following further local enquiries by Emporium, Mr M later stated that he was aware of the enquiries and that the caravan was always in use and therefore was rarely at home. It said that Mr M declined to substantiate the constant use of the caravan. Emporium concluded that, on the balance of probabilities, the caravan was routinely stored at the commercial premises and had never been stored at the home address.

Emporium considered it most unusual for thefts of this nature to happen opportunistically 'as would be the case had the caravan been left for a single night within the premises.' Given the proximity of the premises to the home address, it also thought it unusual as to why it wasn't returned to the driveway if this is where it was usually stored when not in use. As such, Emporium considered that Mr M hadn't disclosed a material fact about where the caravan would be stored which influenced its decision to enter into the contract of insurance. It quoted the relevant policy extract being 'If You are in any doubt about whether a fact is material, You should disclose it.'

In April 2024, following a response by Mr M's solicitor to the February 2024, Emporium took a different stance in relation to Mr M's complaint. It then argued that Mr M had taken out the contract in his sole name, whilst the owner of the caravan was recorded in the relevant Caravan Registration and Identification Scheme ('CRIS') as being Mr M's wife. As such, it considered that Mr M didn't have an insurable interest in the caravan, and the loss was suffered by a person who didn't carry a contract of insurance. As Mr M didn't have an insurable interest, it considered the contract to have been void from commencement. As such, it paid a refund of premiums of nearly £650.

I now turn to the reasons for my provisional decision not to uphold this complaint. I note that Mr M complained about the decline of his claim in February 2024. It's clear from Emporium's final response that it declined the claim on the basis that Mr M provided an incorrect answer in relation to a material fact being the usual location for the caravan's storage. Emporium then appeared to have adjusted or supplemented its reasons for declining this claim on the basis that Mr M had no insurable interest in the caravan, and indeed that the policy was therefore void. I've considered both aspects in this provisional decision.

The starting point for my determination is the wording of the relevant policy documents which form the basis of the insurance contract between the policy holder and the insurer. This policy does in principle cover the policy holder for theft of his caravan. With regard to storage, it refers to security arrangements and to a compound being a 'securely locked area surrounded by man-made structure made of posts of timber, concrete or metal connected by write netting, rails or boards.' It refers to further security measures being 'a propriety wheelclamp; axle wheel lock and proprietary hitchlock.' The terms and conditions also state that 'Your caravan must belong to you…' and 'What is never covered… Loss or damage

because you are not the rightful (legal) owner'. Finally, the policy documents state; 'If You are in any doubt about whether a fact is material, You should disclose it' and also; 'Please revisit your answers to our Declaration Questions and ensure they remain correct.'

Turning firstly to the caravan storage issue, I consider that the storage location for a valuable caravan is a key issue for insurers and is the reason why specific questions will usually be asked about the intended storage location prior to policy inception. I've no reason to doubt Emporium's statement that it had no appetite for insuring caravans at commercial premises due to increased risks of theft. On the balance of probabilities, I'm satisfied on a provisional basis that if it had been aware of such storage at inception, it would have declined cover.

On the other hand, I agree with Mr M to the extent that the policy doesn't clearly re-state or stress that the caravan's default storage location must invariably be the driveway of his home, and that this was a material fact. Instead, the 'Declaration Statement' suggested that Mr M had the choice of whether to keep his caravan at his residential property, or in a compound which didn't need to be approved by a named organisation, as long as it was secured by several proprietary locks, all of which Mr M said had been used in this case. I therefore have some sympathy with Mr M in this respect. Nevertheless, on balance, I consider that in the light of the questions asked of him prior to policy inception, that it would have been reasonable for him to have appreciated that the storage location was a crucial factor for Emporium in offering cover.

On a provisional basis, I'm also persuaded by Emporium's submissions that the caravan's likely default, and indeed pragmatic, storage place had been at Mr M's commercial premises. I consider that Mr M had provided some inconsistent responses regarding storage. Initially he'd said that when not in use, the caravan was parked at the home address as per the policy. Shortly after this, he corrected this to state that the caravan was always in use and was therefore rarely at home. I also note that Mr M had stated that he and his wife had, following a conversation with another caravan owner, decided to change tyres before their planned trip to a rural location, however he had previously stated that his friends were next due to use the caravan. The parties agree that this was likely to have been a targeted theft, and I therefore consider it highly unlikely that such a theft would have occurred had the caravan been in situ for one night only. There is also no evidence to suggest that the caravan had been in the home driveway once or twice a month as stated by Mr M.

In this context, I've then considered the relevant law regarding misrepresentation under the Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA'). This states that it's the duty of the consumer to take reasonable care not to make a misrepresentation to the insurer. If a consumer fails to take care in giving or confirming information, the insurer then has certain remedies. For it to be a 'qualifying misrepresentation' under CIDRA, the insurer must show it would have offered the policy on different terms or indeed not at all if the consumer hadn't made the misrepresentation. The remedy available to the insurer under CIDRA depends on whether any qualifying misrepresentation was deliberate, reckless, or careless. If the misrepresentation was careless, then to avoid the policy, the insurer must show it wouldn't have offered the policy at all if it wasn't for the misrepresentation.

In the circumstances, and on a provisional basis, I'm persuaded by Emporium's evidence that it had no commercial appetite to insure caravans if the default position was that they were to be stored at commercial premises, (regardless of the security arrangements which Mr M has been able to identify at the site). As such, whereas there's no evidence that there was any deliberate or reckless misrepresentation by Mr M regarding storage of the caravan, I consider it likely that his pre-policy answer to the storage question was careless. I can't therefore, say that Emporium acted in an unfair or unreasonable manner in this respect.

For the avoidance of doubt, I've nevertheless gone on to consider the second aspect in

relation to ownership of the caravan. I've provisionally concluded that, even if Mr M hadn't made an innocent misrepresentation when taking out his insurance policy, I consider that he unfortunately had no insurable interest. I note that Mr M states that the relevant Caravan Registration and Identification Scheme ('CRIS') document was produced to Emporium at the outset, and that this made it clear that Mr M's wife was the owner of the caravan (but subject to the agreement which she'd entered with a finance company). Whilst I appreciate Mr M's submissions in this respect, I consider that the policy wording is clear in this respect, that loss or damage when the insured person isn't the legal owner wouldn't be covered. If there was any doubt in this respect, then I consider that it was Mr M's responsibility to identify and discuss any discrepancy with the insure, in order to ensure full coverage.

I also note that certain payments for the caravan may have been made by Mr (and Mrs) M's company, as a separate legal entity. As such whilst Mr M's wife had a clear legal interest in the caravan as evidenced by the CRIS documents and finance agreement, and it may be arguable that Mr M's company had some insurable interest in the caravan, Mr M did not have such an interest as an individual. Whilst I appreciate that Mr M made some monthly payments to his wife which may have been intended to cover a part of the finance costs of the caravan, I don't consider that this amounts to an enforceable legal interest by Mr M in the caravan. Nor do I consider that part-exchange of a previously owned caravan towards the purchase of the stolen caravan changes its ownership status.

In conclusion, and again on a provisional basis, I can't say that Emporium acted in an unfair or unreasonable manner in treating the policy as void and in repaying the premiums. I appreciate that this provisional decision will come as a great disappointment to Mr M, however in the absence of persuasive evidence to the contrary, I consider that this represents a fair outcome to this complaint.'

In my provisional decision, I also asked both Emporium and Mr M if they had any further comments or evidence which they would like me to consider before I made a final decision.

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.

Emporium didn't provide any further submissions or evidence in response to the provisional decision. Mr M's representative provided a comprehensive response however, under two broad headings, being 'ownership' and 'storage'. The Provisional Decision made it clear that the complaint wasn't upheld in connection with the storage issue. Ownership was considered as a secondary issue for the avoidance of doubt. In the circumstances, I deal firstly with Mr M's further submissions regarding this primary point under the heading of 'storage.'

Storage

Mr M reiterated his point that the new caravan was routinely stored at his home address when not in use by Mr and Mrs M or their family or friends. He said that there was no evidence whatsoever to show that the new caravan had been routinely stored at the commercial premises. He thought that all that had been relied upon by Emporium was a Facebook photograph dating from March 2022 showing two cars in Mr M's driveway, photographs of caravans stored in or around the commercial premises, an assertion that an opportunist theft was unlikely, and alleged inconsistent evidence given by Mr M, as well as lack of evidence of storage on the driveway.

As to the Facebook photograph, Mr M said that this pre-dated the policy and, at the time, Mr M owned three motor vehicles, and it was likely that at the time the photograph was taken

the third car was being used to tow the previous caravan. He'd also evidenced a rental agreement for a vehicle lockup. He said that this space allowed him to store vehicles there when the new caravan was parked in their driveway. He said that it was therefore incorrect to say that there wasn't sufficient driveway capacity to store the new caravan at home.

As to photographs of caravans at the commercial premises, Mr M said that up until June 2021, a campervan company used to trade at the address, and he provided company information to support this statement. In addition, Mr M's company regularly carried out MOTs on vehicles which included campervans and, as such, caravans belonging to or being served by these companies were regularly stored in or around the commercial premises. Other tenants on the shared premises also stored vehicles of a similar nature there. In the circumstances, Mr M said that no photograph of the new caravan being stored at the commercial premises had been, or could ever be produced, save for on the night of the theft, which was a one-off event for the reasons he'd previously set out.

Mr M agreed that the theft wasn't opportunistic. He said that it was clear that the shared premises, at which the commercial premises is situated, stored a number of different vehicles and caravans and that the vehicles were visible to any passers-*by 'and therefore more susceptible to organised thefts'* as the local council removed the adjacent trees and bushes in August 2023, whereas Emporium's photographs showed the area when it was partially covered by trees.

Mr M stated that a construction vehicle from a temporary site, situated in front of the commercial premises, was also stolen on the same date as the theft. Mr M said that he became aware of this further theft upon his return from holiday when his wife had requested CCTV footage. Mr M stated that the Provisional Decision erroneously stated that the theft was reported to Emporium a fortnight later, whereas he stated that theft was reported to Emporium the day after discovery of the theft. Mr M produced a copy of an e-mail between Mr M and Emporium to confirm this point.

Mr M refuted that he'd made inconsistent statements and he didn't consider that the statements identified in the Provisional Decision were contradictory in nature, and both statements were true. He said that the new caravan was rarely at his home because it was being used frequently, but when not being used by Mr and Mrs M or friends and family, then it was stored in the driveway at home. Mr M's representative stated that *'It is abundantly clear that when [Mr M] said the caravan was always in use, he did not literally mean always'* and he'd followed up the first part of this statement by saying it was rarely at home.

Mr M said that he frequently provided identified friends with use of their caravans and that his family also used the caravans on a regular basis in compliance with the terms of the policy which allowed use by relatives and friends. When friends and family were using the new caravan, it was stored at their home residential addresses, again in compliance with the terms of the policy. Mr M stated furthermore that the family and friends who borrowed and used the caravans were willing to provide sworn statements to confirm that they routinely borrowed the caravan. As to what Mr M termed purported lack of evidence of storage at the home address, Mr M submitted that it would be almost impossible for Mr M to prove that the caravan had been on their driveway once or twice a month. Mr M considered that the onus ought to be on Emporium, to prove otherwise.

As to CIDRA, Mr M stated that there was no evidence to support the position that there had been a misrepresentation as to future storage being at home when the caravan wasn't being used. He said he never routinely stored the new caravan at the commercial premises, but even if he and his wife had done so, *'it is submitted that there ought not to be any issue with them doing so provided the security measures were followed (which they were).'* Mr M stated that there was no express or implied obligation to keep the new caravan at any one address

'given the very nature of what the new caravan is intended to be used for and given friends and family are permitted to use the new caravan under the Policy.'

Mr M considered that Emporium had attempted to rely on a vague assertion that he'd failed to report a material fact, without there being a definition of what this constituted. He felt that Emporium were now barred from stipulating this in retrospect. He considered it entirely unreasonable to say there was an onus on himself to inquire about routinely keeping the caravan at a commercial premises, especially as he had no intention of doing so, and given that there ought to be no problem in doing so in any event under the terms of the policy.

Mr M then referred to the Consumer Rights Act 2005*[sic]* and said that a term in a consumer contract was unfair if, contrary to the requirement of good faith and, *'it causes a significant imbalance in the parties rights and obligations under the contract, to the detriment of the consumer.'* In addition, he referred to the need for contract terms to be written in plain and intelligible language. He felt that the term of the policy requiring him to report undefined material facts, was accordingly unenforceable. Nevertheless, he considered that the storage and security requirements were clear and unequivocal, and, at all material times, he complied with them.

In summary, Mr M submitted that the Provisional Decision's findings erred in relation to storage both in fact and in law because the commercial premises wasn't the caravan's default storage place. In addition, he said that it erred in finding that Mr M was under an implied obligation to report that the default storage place was the commercial premises, as there was no such obligation.

Having carefully considered Mr M's further submissions, I remain of the view that the storage location for a valuable caravan is a key issue for insurers and is the reason why it will ask specific questions about this before entering a policy contract with the customer. I also remain persuaded on balance that Emporium had no appetite for insuring caravans at commercial premises due to increased risks of theft, whatever the security measure in place. Whilst it's a finely balanced judgment, I also remain persuaded and that if it had been informed by Mr M of the future storage arrangements at inception, Emporium would have declined cover. I note that Mr M had responded to the relevant question at inception was that the default storage location would be the driveway at his home when not in use.

As to the Facebook photograph, and Emporium's argument that there wasn't sufficient driveway capacity to store the new caravan at home, I agree with Mr M that this in itself doesn't prove that the caravan had never been stored on the driveway. Equally however, the absence from the photograph of the third car which Mr M owned, doesn't necessarily infer that Mr and Mrs M were using the caravan at the relevant time. As Mr M stated that he also rented a 'lockup' for storage of vehicles, and there were a number of possible scenarios as to the location of the third car at that time.

I also take Mr M's point that various campervans and caravans had been stored and located at the commercial premises at various times and for different purposes, and that a campervan company had traded there until 2021. I agree that this may well have accounted for some of the photographic evidence which Emporium obtained in relation to the site. As for the assertion by Emporium that *'Local businesses consulted as part of the local enquiries referenced above have confirmed your Caravan to have always been stored in the corner of [the commercial premises] next to a trailer and cab'*, this was refuted by Mr M. He was adamant that the same source *'at no point, indicated that the caravan was frequently parked there.'* The evidence from such a source could be further tested in a litigation setting, however in this setting, all that can be deduced from these accounts is that there doesn't appear to be a denial that the caravan was, at times, parked at the commercial premises.

Mr M agreed that the theft was not opportunistic and that vehicles were more visible to any passers-by and more susceptible to organised thefts than previously. Mr M also provided further information regarding theft of a construction vehicle on the same night as the theft of the caravan and on a temporary site in front of the commercial premises. This does mean that I now consider this judgment to be more finely balanced. Nevertheless, I remain of the view that on the balance of probabilities, the thieves clearly arrived equipped and ready to swiftly break through the caravan's specific security arrangements. This would still suggest that the theft wouldn't have occurred had the caravan been in situ for one night only.

With regard to the inconsistent statements referenced in the Provisional Decision, I remain of the opinion that *'always in use'* and *'rarely'* at home isn't consistent with the notion of the caravan being on the driveway once or twice a month. I appreciate that Mr M has stated that friends and family were willing to provide sworn statements as to frequency of their use of the caravan, and he also stated that it would be almost impossible to prove that the caravan had been on their driveway once or twice a month. In like manner however, Mr M could also have sought to obtain statements from neighbours as to this point. Mr M doesn't address the second set of inconsistent statements, as to the pending use of the caravan. I also note that Emporium had asked Mr M to substantiate the constant use of the caravan, which he declined to do at the time.

In all the circumstances, my provisional conclusions with regard to CIDRA remain. I consider it likely that Mr M's pre-policy answer to the storage question amounted to a misrepresentation of pertinent information. I remain of the view that there's no evidence that Mr M made a deliberate or reckless misrepresentation, however I don't consider that he took sufficient care in providing his answer to a key question as to future storage. Whilst I also agree that there was then no express or implied obligation in the insurance contract to keep the new caravan at any one address, the contract had been entered into by Emporium based on the answers provided by Mr M. I consider it likely that the default storage location was at the commercial premises, not the driveway at Mr M's home, as stated in his answer.

I'm required to reach my final decision on the basis of the available information and on the balance of probabilities. In this case, whilst I agree that it's a finely balanced issue, I consider it unlikely that the default storage location of the caravan was the driveway as stated in Mr M's answers to Emporium pre-policy inception questions. The parties are agreed that, on the night of the theft, the caravan was the commercial premises, and for the reasons above, I consider it more likely that the default storage location was at the commercial premises.

In conclusion, Emporium made it clear that if this material fact had been disclosed at inception of the policy, then it would have declined cover. I consider that it would have been reasonable for the policyholder to have appreciated that, in giving his answers, the storage location was a key question for an insurer in relation to a valuable caravan. The policy made it clear that, *'If you are in any doubt about whether a fact is material, you should disclose it.'* On balance, I can't therefore say that Emporium acted in an unfair or unreasonable manner in declining to cover the claim and in voiding the policy.

Ownership

I now deal Mr M's submissions under the heading of 'ownership'. Mr M referred to an insurance association's definition of the phrase *'insurable interest'*. The relevant statutory provision in the Marine Insurance Act 1906 defines the phrase as being where a person stands *'in any legal or equitable relation to the adventure or to any insurable property at risk therein, in consequence of which he may benefit by the safety or due arrival of insurable property, or may be prejudiced by its loss, or damage thereto, or by the detention thereof, or may incur liability in respect thereof*'.

Mr M submitted that he had gained ownership status as he had jointly purchased the caravan with his wife (as a married couple), as well as an insurable interest, and that the theft amounted to a personal loss suffered by him. Mr M said that the new caravan was purchased by both he and his wife with the purchase price of £33,000 being made up of cash payment, the part-exchange of a previous caravan (£20,500), and finance of £11,500 taken out in his wife's name. He said that the previous caravan was also in shared ownership with his wife, and he'd personally paid nearly £19,500 for it. Mr M provided evidence of the relevant payment for this and a loan in the form of bank statements. He considered that the part-exchange was a payment made in goods which had a financial value but should be treated in the same way as cash would be. He added that the part-exchange element made up the majority of the purchase price for the new caravan.

In terms of the finance agreement, Mr M stated that whilst it was in his wife's name, both he and his wife had made and continued to make independent monthly payments towards the finance for the new caravan. He'd contributed, and continued to contribute to, over half of the monthly finance costs by paying £140 every month, so that once the finance sums were paid off in full, this would lead to *'complete joint ownership...'* Again, Mr M produced bank statements to evidence these payments into the couple's joint account and payments of nearly £275 being made to the finance company out of the same account. In conclusion on this point, Mr M said that there was a clear causal link between payments made by himself and the finance payments for the new caravan.

In summary, Mr M said that he'd therefore exchanged his own property which had financial value and had lost all of the payments he'd contributed towards the finance of the new caravan, '*without receiving the benefit of ultimate true legal ownership of [it] as well as losing the benefit of possession and use of [it].*' He considered that he'd suffered a clear and demonstratable loss and that this was evidence of an insurable interest. Mr M said that he and his wife had provided all the necessary documentation to Emporium prior to policy inception and so thought there was no issue around ownership and enforceability of the policy. He considered it unfair to state that there was an onus on Mr and Mrs M to iron out any issues around ownership.

As to legal ownership of the new caravan, Mr M submitted that, until the finance was paid off fully, the true legal owner was the finance company. He said that if Emporium's policy was to be interpreted in a strict sense, then many policies wouldn't be enforceable. As such, he said that the interpretation of rightful legal owner was too literal and restricted. He argued that the correct approach was to interpret the ownership clause in a liberal sense and, as such, both Mr and Mrs M could demonstrate ownership and an insurable interest in the new caravan. Mr M argued that it wasn't the CRIS document which verified that ownership. He considered that the registration was similar to the DVLA 'V5' form for vehicles which only recorded the registered keeper of a caravan/vehicle and not ownership and he provided details of caselaw to supported this argument in relation to the V5 form. He considered that reliance on the CRIS document to evidence Mr M's wife's sole ownership was misguided.

In conclusion, Mr M said that both he and his wife would each have a claim against the other should there be a litigated dispute over the new caravan, as both had possession and use of it, and both had a vested financial interest in it. Both would also suffer loss from its theft, with Mr M suffering a greater financial loss than Mrs M, as he had invested more financially towards its purchase and that it made sense that the policy was taken out in his name.

Turning to my final decision regarding this issue, I'm persuaded, having had sight of the detailed bank statements, that Mr M had personally paid for and funded the caravan which was part-exchanged to partly pay for the new caravan. I'm also persuaded that the monthly payments to the finance company were made from the couple's joint account and not from a

business bank account. I further note that payments were made from the business account towards insurance premiums, but not towards finance payments for the caravan.

I appreciate Mr M's efforts in providing these detailed submissions and evidence on the question of *'insurable interests'* and *'legal owner'*. Having reviewed this evidence in relation to *the 'insurable interest'* point, I'm now satisfied that, due to his financial and in-kind contributions to the purchase of the new caravan, it's likely that he would be deemed to have had an insurable interest in the caravan and that he would have been prejudiced by its loss. I agree with Mr M however that an insurable interest isn't synonymous with a legal interest.

As to whether Mr M was the *'legal owner'* however, I've described the clear and specific wording of the policy above, which states that that the caravan must belong to the insured and, *'What is never covered… Loss or damage because you are not the rightful (legal) owner'.* It also states, *'Your caravan must belong to you, or you are buying it under a hire purchase agreement'. 'You'* is defined as *'the person named in the Schedule',* being Mr M*.*

Mr M makes the point that until the finance was paid off fully, the true legal owner was the finance company, however, the insurance policy specifically provides for a caravan bought under a hire purchase agreement as above. He also rightly makes the point that the CRIS documents records who the registered keeper is, as this isn't conclusive as to legal ownership and reliance isn't placed upon this document. The relevant documentation makes reference to Mrs M's status as to legal ownership, however, doesn't refer to Mr M. The sales document from the caravan company refers to Mrs M only. The hire purchase agreement is also in Mrs M's name only. This document makes it clear that she must not give anyone else any legal or other rights over the caravan. Unfortunately, I don't consider that Mr M is therefore able to establish from the available evidence that he was the joint legal owner of the new caravan.

Whilst I also have some sympathy with Mr M's point that he and his wife had provided all the necessary documentation to Emporium prior to policy inception, the policy wording is clear that the caravan must belong to the policy holder. It is also clear that the policyholder must make sure that the policy meets their needs. I therefore remain of the view that it was Mr M's responsibility under the policy terms to identify and discuss any discrepancy with the insurer in order to ensure that insurance cover was in place.

In conclusion, I don't consider that Emporium has acted in an unfair or unreasonable manner in declining Mr M's claim, in treating the policy as void and in repaying the premiums. I appreciate that this final decision will come as a great disappointment to Mr M, especially as he has taken time to provide extensive additional evidence, particularly regarding the financing of the caravan's purchase. However, unfortunately this doesn't change my ultimate conclusions with regard primary storage issue. With the exception of the revision of my opinion with regard to the insurable interest point, I also remain of the view that Mr M hasn't been able to demonstrate that he was the joint legal owner of the caravan, and this means that he was unable to meet the terms and conditions of the policy. I therefore conclude that this final decision provides a fair and reasonable outcome to the matter.

My final decision

For the reasons given above, I don't uphold Mr M's complaint and I don't require The Equine and Livestock Insurance Company Limited to do any more in response to his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 December 2024.

Claire Jones

Ombudsman