

complaint

Mr C is unhappy that MCE Insurance Company Limited has declined a claim he made under his motorcycle insurance policy.

background

Mr C's motorbike was stolen in October 2018. So, he made a claim for his loss under his motorcycle insurance policy.

MCE considered the claim and said it wasn't able to accept Mr C's claim. It accepted that Mr C's motorbike had been stolen. But it said the policy didn't cover theft of a motorbike if the steering lock on the bike wasn't activated at the time of the loss. And it said the steering lock wasn't activated in this particular case.

MCE said it knew this was the case because it had an independent expert inspect the bike – which the police had been able to recover. And this engineer said there were no signs of forced steering. It also noted Mr C had said he couldn't remember if he had applied the steering lock.

Mr C didn't agree think this decision was fair. He said he had been honest in saying he couldn't remember whether he activated the steering lock. But, this was something he just did automatically. So, he felt he might have actually done this. Mr C also said he had used chain to the wheel to keep the bike secure. Because Mr C didn't agree with MCE's decision he referred his complaint to this service to decide.

Our investigator didn't think this complaint should be upheld. She said she felt that it was most likely the steering lock wasn't activated at the time of the theft. So, she said she thought it was fair for MCE to rely on the condition that said Mr C needed to activate this lock, to decline the claim. She said not applying the lock was a material to the theft of the bike. So she couldn't say MCE had done anything wrong.

Mr C didn't agree. He said there wasn't any firm proof the steering lock wasn't on at the time of the theft. Because Mr C didn't agree this complaint has been passed to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've decided not uphold this complaint. I've explained the reasons for this below.

I've looked at Mr C's policy, to see what cover he has under his policy. From doing so, I'm aware his policy does provide cover for the theft of his bike. But, there is an exclusion within the policy that says;

'Your policy does not cover the following:

(...)

*12 Loss or damage to **your motorcycle** from **theft** or attempted **theft** where **your motorcycle** is left unattended and the steering lock (where fitted by the manufacturers) has not been activated.'*

This exclusion is also clearly detailed on the key facts document sent to Mr C when his policy was purchased. This says;

*'IMPORTANT: When leaving your vehicle unattended, you **MUST** activate you steering lock (where one is fitted by the manufacturers).'*

Given the above, I'm aware that if the steering lock wasn't activated at the time Mr C's motorbike was stolen, the loss wouldn't be covered by the policy. MCE has said this was the case – so it can't cover Mr C's claim.

When an insurer seeks to rely on an exclusion in the policy it needs to establish, on balance, that the exclusion applies. In this instance, MCE would need to show it was most likely that the steering lock on Mr C's motorcycle wasn't activated. So, I've thought carefully about whether MCE has shown this was the case.

Mr C has said there wasn't any firm evidence to prove that the steering lock hadn't been turned on. And I do appreciate what Mr C is saying here. But, on looking at the evidence provided to me, I think MCE has shown it's most likely the steering lock wasn't activated at the time of the theft.

This is because the police were able to recover Mr C's bike. And so MCE was able to appoint an engineer to inspect it. I've seen the report the engineer completed following this inspection. This said there were no signs of forced steering on the bike.

MCE has explained that if a steering lock is active the bike is less desirable to a potential thief, because the bike can't be wheeled away. And breaking the steering lock would always damage the bike. Given there was no signs of forced steering on the bike, and Mr C said he couldn't remember activating the lock, I think MCE has acted fairly in noting it's likely the lock wasn't turned on. Given the bike was stolen whilst the steering lock wasn't activated, and the deterrent activating the lock provides, I think the failure to activate he lock was material to the theft that happened here.

Mr C said that he did use another security measure of his bike. He said he used an Oxford HD bike chain lock, which was chained to the wheel of the bike. I've thought carefully about this. But, I'm satisfied this doesn't change the outcome of this complaint. Whilst Mr C may have used other security measurements in place at the time of the theft, this doesn't alter the fact that it's likely the steering lock wasn't activated and I think it's less likely the bike would have been stolen if it had been. The additional security measures Mr C used weren't sufficient to stop the theft of the vehicle. So, I'm satisfied MCE acted fairly and reasonably in declining the claim.

my final decision

In light of the above, my final decision is that I don't uphold this complaint. So, I don't require MCE Insurance Company Limited to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 30 May 2019.

Rachel Woods
ombudsman