

complaint

Mr and Mrs O complain that U K Insurance Limited ('UKI') unfairly declined their claim for protective motocross gear.

background

Mr and Mrs O made a claim on their home insurance policy following a fire at their home. Various items of protective motocross gear were damaged – including helmets, gloves, trousers, tops, boots, kneepads, jackets and a kidney belt.

UKI declined to pay for these items, apart from a paddock jacket. This was on the basis that the protective gear was not designed to be used independently of a vehicle and the policy terms exclude vehicle parts and accessories.

Mr and Ms O referred a complaint to this service. Their complaint was considered by one of our investigators, but he didn't think the complaint should be upheld. He concluded that the items were accessories designed to be used with a vehicle and so weren't covered. Mr and Mrs O disagreed, so the matter was been passed to me for a final decision.

I issued my provisional decision in November 2018. I explained that I intended to uphold the complaint as I wasn't persuaded the items could fairly be described as vehicle accessories or parts.

In my provisional decision I said:

"Mr and Mrs O's policy provides cover for the contents of their home. The policy terms define 'contents'. The definition includes household goods and personal possessions, but specifically excludes vehicles. In the terms 'vehicles' are defined as:

- *"Any vehicle ... as well as any of their parts and accessories ..."*

Essentially, UKI's argument is that the protective motocross gear are vehicle accessories, and therefore do not fall within the policy definition of 'contents'. But I disagree.

I consider a vehicle accessory to be something that is optional or extra that can be added to a vehicle; usually to improve its appearance, value or functionality – such as tow bars, roof racks or panniers. The disputed items are not added to a vehicle, they're worn by the user. It's also clear the items are not a vehicle part, something I would consider to be integral to the functioning of a vehicle.

I acknowledge the items are unlikely to be used for any other reason than for safety whilst using a motorcycle (or similar vehicle), but that doesn't in my opinion mean that the items are vehicle accessories.

In conclusion, I'm not persuaded the items can fairly be described as vehicle accessories, or indeed vehicle parts. In my view, the disputed items are accessories of the user, not the vehicle.

I can see it may not have been UKI's intention to cover protective motorcycle gear. But if so, its policy wording needs to be clearer.

I therefore conclude that UKI's decision to decline the protective motocross gear – based on the 'vehicle' definition – was unfair and unreasonable.

Mr and Mrs O also claimed for motorcycle mirrors, which UKI declined. It's my understanding that they accept this item was a vehicle part, and aren't complaining about this. But to avoid doubt, I consider motorcycle mirrors to be a vehicle part – and so I conclude this item was fairly declined."

Mr and Mrs O accepted my decision, but they also asked about four further items – another motorcycle helmet, a trolley jack, quad bike loading ramps, and a pair of jump leads. They explained that UKI's loss adjuster was holding off making a recommendation about these four items until a decision had been made on this complaint.

UKI didn't accept my decision. It reiterated that the items Mr and Mrs O had claimed for were designed for the safety of someone using a vehicle, and they used them as intended. It said the items aren't covered by the policy as they are designed and manufactured to be used for a specific purpose.

UKI also highlighted a definition it found online: *"Motorcycle accessories are features and accessories selected by a motorcycle owner to enhance safety, performance, or comfort, and may include anything from mobile electronics to sidecars and trailers."* UKI explained that it considers the disputed items to be accessories that enhance safety and comfort.

UKI also went on to say that, as underwriters of home and motor insurance policies, it would consider tow bars and roof racks as parts, not accessories.

my findings

I've reconsidered all the available evidence and arguments – including the additional comments made – to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've reached the same conclusions I reached in my provisional decision, for the same reasons. I acknowledged in my provisional decision that the items are unlikely to be used for any other reason than for safety whilst using a vehicle, and I'm still of the view that this *doesn't* mean the items are vehicle accessories.

Furthermore, in my opinion the definition provided by UKI doesn't necessarily support the position it's taken – it lists items added to the vehicle, not items worn by the user. In any event, what matters here are the policy terms (not online definitions), and in respect of protective clothing worn when using a vehicle I'm satisfied the terms are unclear.

Having reconsidered the arguments presented, I remain persuaded that the items can't fairly be described as vehicle accessories – instead, they are accessories of the user, rather than the vehicle.

So overall, I'm satisfied UKI's decision to decline the protective motocross gear – based on the 'vehicle' definition – was unfair and unreasonable.

In respect of the further four items that Mr and Mrs O have recently brought to our attention, I'm unable to comment on them within this final decision. This is because the items haven't formed part of this complaint, and UKI needs to consider this aspect of the claim and make its decision first. However, if UKI has indeed been waiting for this complaint to be resolved before making a decision on related items, it should make its decision soon – taking account of what I've said here about vehicle parts and accessories. If Mr and Mrs O are unhappy with the position UKI takes, once they have complained to UKI we can then consider the matter and the arguments presented.

my final decision

For the reasons I've set out above, and in my provisional decision, I uphold this complaint. My final decision is U K Insurance Limited should:

- settle Mr and Mrs O's claim for the protective gear (that formed part of this complaint) in line with the remaining terms and conditions of the policy; and
- add interest at a rate of 8% simple to any cash settlement it makes for these items, calculated from the date of the claim until the date of settlement

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs O to accept or reject my decision before 20 January 2019.

Vince Martin
ombudsman