

## **complaint**

Mr B complains that MCE Insurance Company Limited declined a claim made on his motor insurance policy following the theft of his motorbike.

## **background**

Mr B's motorcycle was stolen and he made a claim to MCE. But it declined the claim as it said the steering lock hadn't been activated at the time and this was a requirement stated in the policy terms and conditions. Mr B said he'd not received these. He said he'd used other security devices and the bike was in a locked shed at the time of the theft. Mr B cancelled the policy and he received a refund of premium which MCE increased to £75 which it said was to account for the difficulties he had in accessing his policy documentation.

### *our investigator's view*

Our investigator recommended that the complaint should be upheld. He thought the steering lock requirement was clearly stated in the policy documents and so he thought MCE would normally be entitled to decline the claim. But he thought this was an unusual requirement and that it should have been brought clearly to Mr B's attention when he took out the policy. But he couldn't see that this had been done. He thought Mr B would have acted differently if he'd known about the requirement. So he thought MCE had unfairly declined the claim. He thought it should reconsider the claim in line with the rest of the policy terms.

MCE replied that Mr B would have had to tick a box that he'd read the Key Facts for the policy when he bought it. It said the requirement was clearly stated in these and Mr B hadn't complied. It questioned whether the other security devices had been in operation at the time of the theft.

### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mr B and to MCE on 8 July 2019. I summarise my findings:

MCE relied on a policy term and condition to decline Mr B's claim. I saw that the requirement for the steering lock to be activated when the bike is left unattended is clearly stated in the policy Key Facts, and again in the policy's exclusions. I thought this was arguably a significant exclusion, though not unusual, because it limits the extent of cover. And so I would expect it to be set out in the policy wording and in the summary or Key Facts document, as it has been.

Mr B said he hadn't received his policy documents or been able to access them online and he provided evidence to show this. But I could see from MCE's records that Mr B raised this on one occasion with MCE, but he didn't pursue this any further. MCE responded to his request and showed that it did send the policy documents by email though Mr B said he didn't receive these.

But Mr B did show that he could access his previous years' documents online. These would have contained the same exclusion and so I thought MCE sufficiently brought this to his attention. And I thought Mr B could reasonably have raised this with MCE again. So I couldn't say that MCE made an error in not providing him with the documents for his policy.

When Mr B bought his policy, he would have had to tick a box saying that he'd read the Key Facts in order to progress his application. I thought it was then for Mr B to read and understand these Key Facts, including the exclusion, to make sure the policy met his needs.

Mr B thought it relevant that MCE had paid him a small sum in recognition of further difficulties he had in accessing his policy documents. But I still thought MCE took reasonable steps to make Mr B aware of the policy exclusion when he took out the policy. I thought Mr B didn't again tell MCE he didn't have access to his documents until after he made a claim. So I didn't agree that the gesture of goodwill was significant.

So I thought the policy exclusion was clearly stated and sufficiently drawn to Mr B's attention when he bought his policy. I thought it was for him to then comply with it. And I thought it would normally be reasonable for MCE to rely on this exclusion to decline the claim.

But our approach is that an insurer can only fairly decline a claim if it can show that the exclusion it's relying on is material to the loss. In this case, MCE would need to show that not having the steering lock activated led to the bike being stolen.

MCE explained the importance of the steering lock in deterring theft. It said removing the activated lock would damage the bike and this would deter a theft. It said the bike with the lock activated couldn't be wheeled away but would turn in a circle. It also said that other security devices, such as the disc locks that Mr B said he'd applied, could be more easily removed.

Mr B said he'd applied the two disc locks and locked the bike in his shed. I haven't any reason to not believe Mr B as he's also freely told MCE that he didn't apply the steering lock.

In the claim notification call, Mr B said he didn't engage the steering lock. He said this was because he thought if the bike were to be stolen, then a thief breaking the steering lock would make the bike beyond economical repair and he didn't want to risk this. He said there was no debris from the disc locks at the site. So he thought the bike had been lifted away. The shed was located behind Mr B's house on his driveway which was accessed by a dark private road.

MCE said the bike's weight would mean that it would be unlikely to be carried away. But I couldn't see that it'd shown how the bike could otherwise have been stolen.

I thought MCE had shown that having the steering lock activated would have deterred this theft. Mr B said he hadn't applied the lock. The additional security measures he employed didn't prevent the theft. So I thought it was fair and reasonable for MCE to decline the claim because of the exclusion.

Subject to any further representations by Mr B or MCE, my provisional decision was that I intended to not uphold this complaint.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Neither Mr B nor MCE provided any further representations for me to consider. In that case, I can see no reason to change my provisional decision.

**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 Mr B to accept or reject my decision before 29 August 2019.

Phillip Berechree  
**ombudsman**