

## **complaint**

Mr K is unhappy that Markerstudy Limited won't pay a claim under his motor insurance policy for theft of his motorcycle.

## **background**

Mr K's motorcycle was stolen when he was showing it to a potential buyer. The buyer asked to test drive the bike, but Mr K didn't agree. The buyer then asked if he could sit on it to test the gears, and Mr K allowed him to do that. The motorcycle was an off-road bike which didn't have any keys, but only an ignition button to start it. So the thief was able to drive away on the bike. Mr K thinks he might have been helped by some friends who were waiting round the corner. He reported the theft to the police.

Markerstudy declined Mr K's claim because, it said, it was a staged theft and Mr K had been deceived into thinking the potential buyer was genuine. Markerstudy said loss caused directly or indirectly through '*theft by deception*' isn't covered under the policy. Mr K was unhappy with that. He said he wasn't the one who'd deceived the insurer. He also said he'd never received the policy wording stating that '*theft by deception*' isn't covered.

Mr K brought his complaint to us. The adjudicator felt Markerstudy had acted reasonably and in line with the policy terms and conditions, and didn't uphold the complaint.

Mr K didn't agree with the adjudicator, and so this has come to me for a final decision.

## **my findings**

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

The policy specifically excludes cover for '*theft by deception*'. And this is what happened in this case: unfortunately, the thief deceived Mr K into thinking he was a potential buyer, and managed to steal the bike. Although Mr K was cautious enough not to allow the thief to test drive the bike alone, he did in effect hand over control of the bike by allowing him to sit on it when all it took to start the bike was the start button. So, on that basis I think it wasn't unreasonable for Markerstudy to decline the claim.

Mr K has said that the police have since found the man responsible for the theft and charged him. (Unfortunately, it doesn't appear the bike was recovered.) Markerstudy says this doesn't change their position. And I agree that isn't unreasonable either – Markerstudy provided insurance at a certain price to cover certain risks, and was entitled to exclude unacceptable risks, which it did in this case. It never suggested that there hadn't been a theft.

However, Mr K says he didn't know about the exclusion, as he didn't receive a copy of the policy wording. But the '*theft by deception*' exclusion is a common one in motor insurance policies, and I don't think it's one that should have been specifically highlighted to Mr K. I also don't feel, on balance, that even if he had known about the exclusion, he would have acted differently (either in taking out the policy in the first place, or in his dealings with the potential buyer).

That means, although I do have sympathy for Mr K in this unfortunate situation, I don't think that Markerstudy has done anything wrong in declining the claim.

**my final decision**

For the reasons I've given, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 4 April 2016.

Helen Moye  
**ombudsman**