

complaint

Mr P has complained about Markerstudy Insurance Company Limited's decision to reject a claim he made under his motorcycle insurance policy.

background

Mr P holds a motorcycle insurance policy with Markerstudy, covering a motorcycle he owned. The policy provides cover for theft.

In May 2018 while Mr P was out, his home was broken into. The burglars took the keys to Mr P's motorcycle, the disc lock on it and his helmet. They then used the keys to steal Mr P's motorcycle, which was parked outside of his home in his car port. Mr P reported this to the police and made a claim against his policy.

Markerstudy rejected Mr P's claim. It said an endorsement applied to Mr P's policy which requires him to keep his motorcycle within his garage when it is at his home. Because the motorcycle was parked in a car port, Markerstudy said Mr P's claim wasn't payable.

As Mr P remained unhappy he referred his complaint to our service. He thought that the statement of fact form was inconsistent with the endorsement in question. He also said the endorsement wasn't mentioned to him when he renewed his policy over the phone.

Our investigator didn't uphold the complaint. He said the policy endorsement made it clear the motorcycle needed to be kept in Mr P's garage. And if the motorcycle had been in the garage, he thought it was possible it wouldn't have been stolen.

Mr P didn't agree with the investigator's findings, so he asked for an ombudsman to consider his case. Mr P said his motorcycle would still most likely have been stolen if it had been locked in his garage. This is because the burglar had gained access to his home and taken his keys, so they could've also accessed the garage and taken the motorcycle from there. For this reason he thought Markerstudy should cover the claim.

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'm not upholding it. I'll explain why.

Endorsement 434 set out in Mr P's policy schedule says that Mr P is required to park his motorcycle in his locked garage. It also says that, "*If a theft or attempted theft of your vehicle happens at any time and within a 500 metre radius of your home and/or declared garage address when the vehicle is not locked in this garage or building we will not pay the claim.*"

Mr P's statement of fact form says, amongst other things, "*Where is the vehicle normally kept at night: Garaged.*"

Mr P says that endorsement 434 is inconsistent with the above section of the statement of fact form. He says on the one hand endorsement 434 sets out that his motorcycle must be kept in his garage. But, on the other hand, the statement of fact form doesn't say the motorcycle must be kept in his garage at all times – it simply sets out where the motorcycle

is normally kept at night. Mr P argues that this is misleading and that all policy documents should set out the same information.

It might be helpful if I explain the purpose of the statement of fact. The form is a record of information Mr P has provided when he took out the policy. While Markerstudy has used this information to decide what terms of insurance it wishes to offer Mr P, it doesn't form part of the actual policy terms and conditions. The endorsements on the policy schedule however do form part of the policy terms. So, I'm not persuaded the information about where the vehicle is normally kept on the statement of fact form is relevant to the assessment of Mr P's claim.

Mr P says that when he renewed his policy over the telephone in May 2018, the broker, who I'll call 'B', made no mention of endorsement 434. Mr P argues that he should've been made aware of this at the time of his renewal. As this is an issue about the broker, I'm unable to consider this point in this decision. That said, I'm satisfied that endorsement 434 was clearly set out in the policy schedule provided by Markerstudy and Mr P confirmed he received this during his renewal call with B.

It isn't in dispute that endorsement 434 required Mr P to keep his motorcycle in his garage. And Mr P's motorcycle wasn't in his garage when it was stolen. Mr P told us he'd taken the motorcycle out of his garage in the morning and left him home at around 8.50am, returning at 2pm. It was then that he discovered his motorcycle had been stolen and his home broken into. Given the length of time that Mr P was away from the home, I don't think it was unreasonable for Markerstudy to decline the claim given Mr P hadn't complied with the endorsement.

Mr P argues that it's irrelevant where his motorcycle was kept at the time it was stolen as he thinks it would've been taken anyway. Mr P says he is protected by the Insurance Act 2015 for these types of circumstances.

In order to address this point it's important to understand why endorsements such as this one are added to insurance policies. Endorsements are ways for insurers to limit the risk exposed in certain circumstances. For example, an insurer may require high value items to be kept in a locked safe to limit the risk of them being stolen. In the circumstances of this case, Markerstudy required Mr P to keep his motorcycle out of sight by keeping it in his locked garage.

It's possible Mr P's motorcycle would still have been stolen if it had been locked in his garage at the time. But I haven't seen enough evidence to persuade me that's the case. So, taking all of the above points together – I don't think I can fairly say it was unreasonable for Markerstudy to decline Mr P's claim.

Mr P has made reference to the Insurance Act 2015 and says it protects him in these circumstances. But it isn't clear what he means by this. In reaching my decision, I've taken into account the relevant law, guidelines and what I consider to be fair and reasonable in the circumstances. And I don't think Mr P has been treated unfairly.

my final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 29 December 2018.

Hannah Wise
ombudsman