

## **The complaint**

Mr S has complained that Markerstudy Insurance Company Limited (Markerstudy) has undervalued his taxi following a total loss claim.

## **What happened**

The background to this complaint, and my provisional findings on it, can be found in my provisional decision dated 12 February 2021, the relevant text of which I have included below:

### ***What happened***

*Mr S was involved in an accident and his taxi was written off. Markerstudy inspected the taxi and offered to pay Mr S the market value of the taxi, which it says is £4,900.*

*But Mr S doesn't agree with this. He says his taxi is worth in excess of £10,000.*

*An investigator from our service looked at this complaint. The investigator was satisfied that the valuation placed on the taxi by Markerstudy is fair.*

*But Mr S doesn't agree and he has asked for an ombudsman to review the complaint.*

### ***What I've provisionally decided and why***

*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 intend upholding this complaint. I'll explain why.*

*Mr S is unhappy with the valuation that Markerstudy has placed on his taxi. He says that he paid £30,500 for this vehicle in April 2015. He says it has a full-service history and he's provided a letter from his local Mercedes main dealer confirming that the vehicle was in perfect condition, and any repairs he had carried out on the vehicle were completed with genuine Mercedes parts. He's also provided a number of invoices from Mercedes to support this. Mr S also says that he had received a number of offers of in excess £10,000 to sell the taxi in the months preceding the incident, and he refused these as they were too low. He says he was always honest with Markerstudy about the value of the taxi, and always gave a fair valuation at renewal. All he wants now is for Markerstudy to pay him a fair market value for his vehicle.*

*Our approach is to consider whether Markerstudy has settled Mr S's claim in line with the terms and conditions of his policy, fairly and reasonably. So, I have considered the terms of the policy and the offer made in order to determine whether Markerstudy has acted fairly. I can see that in the event the taxi can't be repaired, Markerstudy won't pay more than the market value of the taxi at the time of the loss.*

*Under the heading "Total Loss Offer and Settlement" the policy says "The most we will pay will be the market value of your vehicle (including its spare parts or attached accessories if*

*they have been lost as well) or the amount proposed or last declared to Underwriters as the vehicle's value (including its attached spare parts and attached accessories) whichever is the less."*

*When we look at complaints about vehicle valuations, we look at motor trade guides for valuing second-hand vehicles. We find these persuasive because their valuations are based on nationwide research and likely selling prices. The guides refer to advertised and auction prices to work out what the likely selling price for the same vehicle would be. This takes into account all the specifications of the vehicle as well as any extras and the mileage. If a guide price is significantly higher or lower than the others, we may think it's reasonable to ignore it. This depends on the value of the vehicle.*

*Customers sometimes say the amount they've been paid is unfair because they've seen similar vehicles advertised at higher prices. We wouldn't normally place much weight on adverts to decide whether a valuation is fair. Differences in mileage or year of registration can significantly affect value, and sometimes the vehicle actually ends up selling for a lower price than advertised. Adverts may be helpful if the complaint involves a classic or rare model. Or if they strongly indicate that the guides could be wrong.*

*Mr S has provided some advertisements to support his loss. But the advertisements he's provided show wildly different valuations, and this seems to be because of varying different mileage on each. The advertisements he's provided are not like for like in terms of vehicle age and mileage.*

*I've checked three motor trade guides for the value of Mr S's taxi at the time of the incident. The CAP valuation guide has advised that it doesn't value taxi's as standard. But it has provided a bespoke retail value for us of £6,000 to £6,500, exclusive of VAT. We had the same issue with the Glass valuation tool. However, Markerstudy was able to obtain a valuation of £5,655 from Glass, again exclusive VAT. The Cazana valuation tool was able to provide a valuation, and it valued Mr S's taxi at £5,585, again exclusive of VAT.*

*Markerstudy has placed a valuation of £6,125 on this vehicle. And looking at the three guide prices together our approach would be to say this is fair. But I need to make it clear that the valuations provided by the valuation guides are all exclusive of VAT. So, if Mr S isn't VAT registered, Markerstudy needs to pay Mr S the valuation above plus 20% VAT.*

*We've asked Markerstudy to breakdown its offer. It has advised that the offer it made is exclusive of VAT. So, we've asked Mr S to confirm whether he is VAT registered. I appreciate that Markerstudy were under the impression that Mr S was VAT registered. But Mr S has confirmed to us that he isn't. And because of this Markerstudy need to include VAT in the valuation it places on Mrs S's vehicle.*

*However, Markerstudy has advised us that this vehicle was a Category D write off before it was involved in this incident. It provided us with evidence to support to show that this vehicle was written off following an incident in October 2014. But Mr S says he wasn't aware of this. He says he can't remember if he completed a HPI check at the time he purchased the vehicle.*

*Usually if a vehicle is deemed a previous write off, we would allow Markerstudy to deduct up to 20% from the pre-accident value. The only way we would say this wasn't fair is if it was very clear that the consumer had been deceived at the time of sale. But we would expect the consumer to carry out their own checks before they purchase the vehicle. In this case Mr S has provided us with a copy of the agreement and payment history for this vehicle. He's also said he can't remember if he did a HPI check. But in terms of reasonable care, as a minimum we would usually expect the consumer to demonstrate that they had carried out*

*some form of check on the car's history. And Mr S hasn't done this. So, I think Markerstudy should be allowed to deduct 20% off its valuation because the vehicle is a previous Category D write off.*

*But what seems to have happened here is that Markerstudy has taken the valuation excluding VAT and then deducted a further 20% because the vehicle was a Category D write off. Mr S has confirmed he is not VAT registered, so I think Markerstudy needed to take its valuation of £6,125, add 20% to include VAT, and then deduct 20% again, to account for the Category D write off deduction. This would leave a valuation of £6,125 for this vehicle. And this is what Markerstudy needs to pay. I understand Mr S hasn't received any payment for this claim yet. So, 8% simple interest should be added to this amount starting from the date of the claim.*

### **Other considerations**

*Mr S has also said he doesn't feel like Markerstudy has treated him fairly as he has had to rent a vehicle and he hasn't been provided with a replacement. However, as far as I'm aware he hasn't raised this with Markerstudy. Mr S would need to complain to Markerstudy in the first instance so it can review the issue and provide him with an answer.*

*Mr S has also said that he was honest with the value of his vehicle at each renewal and no one had told him that the vehicle was worth less than he had been declaring. Even though Markerstudy haven't dealt with this, I can explain to Mr S that the value he gives at renewal, is not considered the market value of the vehicle. This value is a rough estimate he's asked to provide and its used to price his insurance at renewal. The market value is the price a vehicle is worth at the time it needs to be replaced. And this value is changing all the time due to many criteria such as age, mileage, market popularity etc. In this instance the market value of this vehicle is £6,125.*

### **What I've decided – and why**

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

Both parties have now replied to my provisional decision, and a number of issues have now been clarified. Initially Mr S replied with a further query about a vehicle tax refund and about retaining the salvage of the vehicle. I can't deal with either of these new issues in this decision, and I would ask Mr S to direct these enquires back to Markerstudy.

Markerstudy also replied. It was satisfied with the valuation. But Markerstudy say it only made a deduction for VAT because Mr S declared in a telephone call that he was VAT registered. Markerstudy also say it had tried to pay Mr S for the vehicle, but he'd returned the cheque. Markerstudy say that it shouldn't have to pay interest on the payment, as Mr S hadn't provided correct information, and it had tried to pay him. Markerstudy has now also confirmed that the third party has accepted liability and Mr S's excess would be waived.

Markerstudy has provided me with a copy of the call recording from when Mr S originally took out this policy. And having listened to the call I agree; Mr S does say that he is VAT registered. On this basis we asked Mr S again whether he is VAT registered. Mr S advised again that he isn't, and he's now provided a statement from his accountant which says that he's not, and never has been VAT registered.

I think Mr S made a mistake when he declared at inception that he was VAT registered. And it's clear from our conversations with him that he was slightly unsure what being VAT registered meant and its importance to the valuation of his vehicle. However, it is Mr S's

responsibility to give a fair representation of his situation, whilst answering any questions. Because of this Markerstudy should pay Mr S the correct valuation, inclusive of VAT but with a deduction because of its previous write off status only, as set out in my provisional decision. But I won't be asking Markerstudy to pay interest on this amount.

### **Putting things right**

Now that we have confirmation that Mr S isn't registered to pay VAT, Markerstudy should pay Mr S the full valuation of £6,125 as set out in my provisional decision. However, it's more likely than not that the lower valuation would never have been offered to Mr S if he'd been more careful when answering the questions at inception. So, I agree that Markerstudy shouldn't have to pay 8% simple interest on this amount.

### **My final decision**

For the reasons I've given above, I uphold this complaint, and direct Markerstudy Insurance Company Limited to pay Mr S £6,125 only to settle this claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 April 2021.

Derek Dunne  
**Ombudsman**