

The complaint

Mr S complains his broker Next Risk Solutions Limited ('NRS') incorrectly recorded the car's current mileage at the start of his motor insurance policy, and that this meant his insurer later declined a claim he made under the policy.

What happened

On 9 March 2019 Mr S's father bought a new car on finance, and the manufacturer provided him with a week's free insurance. It seems Mr S's father bought the car for Mr S to use. So Mr S took out his own annual motor insurance policy for the car through NRS. In doing so, Mr S spoke to NRS on the telephone. His policy started on 15 March 2019.

Mr S has said the car was damaged in an arson attack on 7 August 2019, which was investigated by the police. Mr S claimed for this under his policy. But the insurer declined his claim. It said his policy contained an exclusion that said, *"We will not cover any loss or damage to your vehicle(s) [vehicle make and model] if the mileage covered during the period of insurance exceeds 5,000"*. It pointed out that the car's mileage at the time of the claim was 5,625. The insurer said the car was a write-off and arranged for it to be scrapped.

Mr S complained to NRS that when he took out the policy, it had incorrectly recorded the car's current mileage as zero. Mr S also complained to the insurer about its decision to decline the claim and scrap the car. Our Service has addressed Mr S's complaints about the insurer separately. This complaint is about how NRS recorded the car's current mileage at the start of Mr S's policy, so in this decision I've focused on what's relevant to this.

In response to Mr S's complaint, NRS said that in its call with Mr S, it asked Mr S what the current mileage of the car was, and Mr S said he didn't know and so it recorded zero. And it's pointed out that Mr S said he expected to travel a total of 5,000 miles during the whole year. NRS pointed out the car's mileage on 20 August 2019 was 5,625 and that Mr S had explained this was because his father had used the car a lot in the week before Mr S's policy started. Based on Mr S's explanation of those journeys and the car's delivery mileage, NRS thought the car had done about 1,080 miles before Mr S took out his policy. NRS said that even if it set these 1,080 miles aside, Mr S had driven 4,545 miles within the first five months of his policy, so he'd likely have exceeded the mileage he'd agreed to when he took out the policy during the period of insurance.

Unhappy, Mr S came to our Service saying NRS had been wrong to assume the car's current mileage was zero. And that the arson and not having his car had a very significant impact on him, his family and his neighbours.

One of our Investigators considered Mr S's complaint. She thought that in its call with Mr S, NRS should have done more to get the car's current mileage from Mr S. She said NRS should pay Mr S £250 compensation for the distress this error caused him.

NRS accepted the Investigator's view. But Mr S disagreed with the Investigator. He said £250 wasn't enough compensation for the distress and financial loss the arson caused. He sent us a photo he said he'd now found of the car's dashboard, suggesting it showed the car's mileage was 2,146 on the day after he took out the policy. Mr S told us that because

the car had done that mileage before he took out his policy, he thought he was still within his policy's mileage limit of 5,000 when it suffered the arson attack. He's added that when he reached the mileage limit of 5,000, he would have taken out another motor insurance policy elsewhere or sold the car. Mr S also mentioned NRS had advised him there was a payment pending in respect of his claim.

Our Investigator responded and said that while Mr S was aware the car had done significant mileage in the previous week, he didn't tell NRS anything to suggest the mileage wasn't zero or close to zero as could be expected for a new car when he took out the policy. And that NRS had correctly told Mr S the insurer was holding a claim amount in reserve, though ultimately the insurer decided not to pay this.

As agreement couldn't be reached, this complaint was passed to me for consideration. I asked NRS for more information about the sale of Mr S's policy, but despite reminders, NRS didn't provide this.

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.

I'd firstly like to acknowledge that the arson Mr S has told us about must have caused him and his family a great deal of distress and worry. I'm very sorry to hear that. But I must be clear that I've seen nothing to suggest NRS was responsible for that arson, so it wouldn't be fair for me to ask NRS to pay Mr S compensation for the distress and inconvenience the arson in and of itself caused Mr S. And I don't think what NRS did resulted in Mr S's claim being turned down, and I've explained why later in this decision.

Mr S has brought a number of complaint points to our Service. The one NRS is responsible for is how the car's current mileage was recorded at the time Mr S took out his policy. NRS hasn't provided the further information from the time of the sale that I asked for. So I've based my decision on the information I do have, which includes a recording of the call between Mr S and NRS when Mr S was taking out his policy.

In this call, NRS asked Mr S *"And what's the current mileage of the vehicle?"* Mr S replied *"I'm not too sure mate"*. NRS simply said *"Ok"* and moved straight on to the next question. It seems NRS assumed the mileage was zero or as close to zero as to make no difference, because it recorded the car's current mileage as zero. I can understand why NRS might have assumed that, given Mr S said the car was new and had only been bought by his father about a week earlier.

However, it wasn't for NRS to make assumptions. Instead, NRS should have asked Mr S to confirm the car's current mileage and explain it couldn't continue without this information, as it did elsewhere in the call when Mr S wasn't sure of his answers to questions about his driving licence and the amount paid in a previous claim. So not asking Mr S to confirm the current mileage was an error on NRS's part.

When a business makes an error, our approach is to consider what impact that error had on the consumer. In other words, whether that error caused the consumer any distress, inconvenience or financial loss.

In this case, I think Mr S would have been frustrated and concerned to find out during the claim process that NRS had incorrectly assumed the car's mileage was zero at the start of his policy, especially when his policy contained an exclusion that said the insurer wouldn't cover any loss or damage to the car if the mileage covered during the period of insurance

exceeded 5,000. I think £250 is fair and reasonable compensation for that frustration and concern. But, as I've already mentioned, I don't think NRS's error led to Mr S's claim being turned down and so caused him a financial loss as he's suggested.

One of the other questions NRS asked Mr S in the call was, "*And how many miles are you looking to have for the year?*". Mr S replied "*Five thousand.*" NRS acknowledged this by saying "*Five thousand, yeah*" before moving on to the next question. Based on the answer Mr S gave, the insurer added the specific 5,000 mileage exclusion to Mr S's policy.

As part of the claim process, Mr S later told the insurer and the broker that the car did significant mileage in the week before Mr S took out the policy, explaining that this was because of the delivery mileage and his father needing to do several trips between specific places. I think it follows from Mr S's explanation that the mileage done by the car in the week before Mr S took out his policy would have totalled approximately 1,100. Later still, Mr S provided our Service with a photo he said he'd now found, and suggested it showed the car's mileage in fact stood at 2,146 on the day after his policy started.

Even if I were to accept that the car's mileage was 2,146 at the start of Mr S's policy, I don't think that makes any difference here. If NRS had insisted Mr S confirm the car's current mileage as I think it should have, Mr S would have told it the car's current mileage was 2,146. And the insurer has told our Service that the car's current mileage didn't affect whether it offered Mr S cover or not.

But the insurer has told us that what mileage Mr S would do during the period of his policy would affect whether it offered Mr S cover, and on what terms. In the call with NRS, Mr S himself chose to say the car's mileage for the period of cover would be 5,000 – this figure wasn't prompted by NRS. And I've seen nothing to make me think Mr S would have given a different answer here if NRS had recorded the car's current mileage as 2,146. So I'm satisfied Mr S's policy would still have gone ahead on the same terms. And I must be clear that it was the insurer that decided to decline Mr S's claim based on the policy terms, not NRS. And – as I've already said - the insurer's decision to decline the claim is the subject of a separate complaint with our Service.

While not the crux of Mr S's complaint about NRS, I note Mr S says that during the claim assessment, NRS told him there was an insurance payment pending. I can see that NRS told Mr S the insurer was holding a claim amount. It's usual practice for an insurer to hold an amount in reserve in the event it pays the claim, though in this case the insurer decided not to pay Mr S's claim. And I've not seen anything else to make me think NRS led Mr S to believe his claim would definitely be paid.

Putting things right

I think NRS made an error in not making Mr S confirm what the mileage was on his car when he took out his policy. And I accept this caused him frustration and concern, so I also think NRS should pay him £250 for the frustration and concern it caused Mr S. But I don't think this error or anything else NRS did led to Mr S's claim being turned down.

My final decision

For the reasons set out above, I've decided Next Risk Solutions Limited must pay Mr S £250 compensation for the distress its error caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 9 September 2022.

Ailsa Wiltshire
Ombudsman