

The complaint

Mrs E has complained through her representative – Mr E – that she didn't get a replacement car when she claimed under her car insurance policy, which was arranged for her by Hastings Insurance Services Limited, following the theft of her car.

What happened

Mrs E's car was stolen and she claimed under her car insurance policy. Through Hastings she asked her insurer for a courtesy car and was told she wasn't entitled to one. This was because, whilst she had Hastings Premier Cover, which included a replacement car in certain circumstances, these did not include when her car had been stolen. To get one in this situation Mrs E would have needed to have purchased an optional extra called enhanced substitute vehicle cover. When Mrs E said she wasn't happy about this she was passed through to Hastings' customer service department and substitute vehicle cover was added. This actually generated a refund of premium, as opposed to costing extra. When Mrs E then called to ask for a substitute vehicle she was told she couldn't have one because the cover had started after her car had been stolen.

Mrs E complained to Hastings. They apologised for the confusion around adding the substitute vehicle cover and explained this was due to a misunderstanding by their agent. And it should have been made clear to Mrs E she couldn't have a substitute vehicle following the theft of her car, as this had happened before the substitute vehicle cover started. Hastings paid Mrs E £40 in compensation for the distress and inconvenience she'd experienced because of this.

Mrs E wasn't happy with Hastings' response and Mr E asked us to consider her complaint. He's said that Hastings' marketing literature is misleading as it gives the impression a replacement vehicle will be provided under the Premier Cover and it doesn't make it clear this is only in certain circumstances. He said he and Mrs E wanted Hastings to cover the cost of a hire car whilst they were waiting to get the amount due in settlement of their claim and pay Mrs E more compensation for distress and inconvenience.

Mr E also asked us to consider a complaint from Mrs E about problems with her receiving what was due in settlement of her claim. But, as she hadn't actually complained about this prior to submitting her complaint to us and this would be her insurer's responsibility anyway, we're dealing with this separately.

One of our investigators considered Mrs E's complaint. She said that we couldn't consider Hastings' marketing in general terms, but that she felt Hastings had done enough to make it clear to Mrs E that replacement car cover did not apply when her car was stolen. She pointed out that whilst Mrs E's welcome letter, sent to her when she took out the policy through Hastings, did mention that she had replacement car cover, it also said she should refer to her policy document for full details of cover. And this set out the situations when she would not get a replacement car, including when her car was stolen.

Mr E has said he and Mrs E don't agree with the investigator's assessment and have asked for an ombudsman's decision. He's said Hastings needed to provide Mrs E with clear, fair

and not misleading information when marketing and selling her policy. And they hadn't done this because their literature did not make the limited extent of replacement car cover clear enough.

I asked Mr E if Mrs E hired a car once she realised she wouldn't get a replacement vehicle from Hastings. He's said she did and he's provided an invoice for one week of hire at £588.45. He's said that for the rest of the time Mrs E had to get buses, taxis or walk.

When providing this information Mr E suggested Mrs E should get the hire rate of £73.45 per day for the period she was without a car and a significant amount for the stress she endured during the claim. And he has suggested an award based on his professional rate as a Senior Compliance Officer.

I also wrote to Hastings and explained I didn't think their sales process was clear enough on the limited provision of a courtesy car. And they've come back with comments on this and to provide more detail on the sales process Mrs E went through.

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.

Firstly, I should say that I agree with Mr E that Hastings had to provide Mrs E with clear, fair and not misleading information throughout the sales process, including in any marketing material. This included putting Mrs E in a position to make an informed decision on whether the policy she was purchasing was right for her.

Hastings have now provided details of the sales journey Mrs E went through. They've shown she went through a comparison site. On this, when she clicked on the Hastings Direct quotation that came up, she'd have seen one of the policy features listed was a courtesy car. There was no reference at all to this being in limited circumstances. So, I can see why Mrs E would have gone ahead with the quote thinking she'd get a courtesy car in all circumstances when her car was unavailable to her due to an insured event, including if it was stolen.

Once she decided to go ahead with the Hastings quote Mrs E would have been taken to Hastings' website. At this point she'd have seen a basic details screen and this listed the benefits of her comprehensive cover with Hastings. Under this at the very top with a green tick next to it was 'Courtesy car – replacement vehicle while your car is being repaired'. This could perhaps have alerted Mrs E to the fact that she would only get a courtesy car while her car was being repaired. But I don't think it is clear enough for two reasons. Firstly, it does not state clearly that this would be the only time Mrs E would get a courtesy car. Secondly, this isn't actually the only time Mrs E would have got one, as it seems that she would also have been entitled to one if her car was written off, ie uneconomic to repair in an accident that wasn't her fault. Although, from the copy policy document Hastings have provided to us, the policyholder would only get a replacement/courtesy vehicle if they used one of the insurer's approved repairers and only while their car is being repaired, not if it is written off, irrespective of whether this was due to a fault or non-fault accident.

Next Mrs E would have had to go through an optional extras section and she would have been taken through various optional extras that she could choose to purchase. One of these was entitled 'Add enhanced substitute vehicle cover?'

This said the following:

'If you're in an accident that's your fault, your car policy will provide a substitute vehicle while

yours is being repaired – but not if the vehicle's a write off. Substitute vehicle cover gives you a hire car of equivalent engine size to yours, in the event that yours is damaged, stolen not recovered or written off.

- For fault accidents, write offs, fire, theft and attempted theft...'

However, for me, the problem is that once Mrs E thought she had a courtesy car as part of her cover she wouldn't have necessarily felt the need to read the details of the substitute vehicle cover. And this is confusing anyway when read in conjunction with the policy, which makes no distinction on courtesy cars between fault and non-fault accidents.

In my view, the problem with Hastings' sales process is that it simply doesn't make it clear enough that a courtesy car is only provided in limited circumstances. And I think this understandably left Mrs E thinking that she would get a courtesy car until her claim for her car was settled one way or another.

Hastings have pointed out that in their sales screen there was also a link to the full policy terms and conditions, which Mrs E could have read. And these made the position regarding a courtesy car clear. But Mrs E shouldn't have had to have read the full terms and conditions to be able to make an informed decision on whether the policy she was purchasing was right for her. She should be able to do this through significant terms, including limitations, being highlighted in the sales process.

I also appreciate Mrs E could have read the policy document once she'd taken out the policy. But – again – this doesn't mean that if Hastings failed to fulfil their obligations at point of sale, Mrs E should be penalised for not reading a 100 page policy document having purchased what she thought was a suitable policy for her.

It therefore follows, that I'm not persuaded Hastings met its obligations to Mrs E when it sold the policy to her to put her in a position to make an informed decision on whether it was right for her. And, I think if it had done this, she'd have realised she needed to purchase the substitute vehicle cover and done so at the outset. This means she'd have been provided with a substitute vehicle when her car was stolen.

Putting things right

Mrs E wasn't provided with a substitute vehicle and decided to hire one for a week instead. As I've already mentioned, Mr E has provided an invoice for one week's hire at £588.45. And I think Hastings should reimburse this, as it is for a similar vehicle to the one Mrs E had insured under her policy, albeit not the exact same make and model. But, Hastings can deduct what it would have cost Mrs E to add enhanced substitute vehicle cover to her policy from the outset for the full year. This is because I'm satisfied that if Hastings had fulfilled their obligations to put Mrs E in a position to make an informed decision she would have chosen this option and paid extra for it.

I also think Hastings should pay a further amount for distress and inconvenience to compensate Mrs E for the fact she was without a car for a period of time. And because she endured some distress and inconvenience because of the poor service provided by them in giving her the impression she could have a substitute vehicle when this turned out not to be the case. However, I do not agree with Mr E that this should be based on his professional rate. We are an informal dispute resolution service and our awards for distress and inconvenience reflect the extent we think this was experienced by the complainant. They do not reflect the professional fees of those they choose to represent them or what it would have cost them to hire a vehicle when this isn't actually what they did for the period in question.

Having considered the matter, I've decided to award a further £200 to Mrs E. This is on top of the £40 Hastings have already paid.

My final decision

For the reasons set out above, my final decision is that I uphold this complaint and order Hastings Insurance Services Limited to pay Mrs E £588.45 to reimburse her hire costs, plus a further £200 in compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 16 June 2022.

Robert Short
Ombudsman