

The complaint

Mrs N has complained about Bastion Insurance Co. Ltd. She isn't happy that its agent turned down a claim under her breakdown policy and the delays she faced. For ease of reading any reference to Bastion includes its agents.

What happened

I looked at this case and provided my initial thoughts in my provisional decision as follows;

Mrs N was with her very young child, when she broke down on the motorway. She was in a very vulnerable position and called for assistance under her breakdown policy. Bastion didn't send a breakdown recovery agent initially while it negotiated where Mrs N's car would be recovered to. And when its agent did attend it couldn't charge the battery on Mrs N's car and said there was an electrical fault which in effect meant it couldn't transport her car without specialist equipment, which was excluded under the policy.

This meant Mrs N's car had to be removed from the motorway by the police to its compound as it couldn't be left in the dangerous position it was in. The police recovery agent charged Mrs N's battery and towed the car. When Mrs N complained to Bastion about this it said that it had done all it could to help Mrs N but specialist equipment was required to transport her car which was excluded under the policy. So Mrs N complained to this Service.

Our investigator looked into Mrs N's complaint but didn't think it should be upheld. She outlined that Bastion had acted reasonably and simply followed the policy terms and conditions. She didn't think Bastion delayed attending and accepted that it acted reasonably as the policy excluded the use of specialist equipment.

As Mrs N didn't agree the matter has been passed to me for review.

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. And having done so I think the complaint should be upheld. I'll explain why.

I know Bastion's agent believes there wasn't any delay in dispatching a recovery agent to Mrs N. But it took over four hours to get to Mrs N who was in a difficult and vulnerable position with her young child at the side of the road. And I note quite a period of time was taken even before a breakdown agent was requested by Bastion. I know Bastion feels that it had to agree the parameters of the recovery before dispatch, but I think it could have looked to get a recovery vehicle dispatched while discussing things with Mrs N. The sort of problem Mrs N experienced is exactly the sort of problem people buy a roadside assistance policy to protect them against and I think Bastion should have dispatched a recovery vehicle far quicker, especially given Mrs N's circumstances. So there clearly was some delay and a period of four hours is clearly too long for someone in Mrs N's vulnerable position, and I think she should be compensated for this.

Turning to the recovery of Mrs N's vehicle I can't be sure what happened. But I think the fact the police recovery agent was able to get charge in the battery so they could access the car and transport it without specialised equipment shows it was possible. So, it is surprising that Bastion's recovery agent wasn't able to do this.

Given the police's recovery agent did this so easily I think, on balance, Bastion's recovery agent should have been able to do this. I accept the general point Bastion has made that things may have changed. But given the relatively short timeframe between its recovery agent attending and the police removal, and the fact that no change has been identified to the vehicle, I think its recovery agent should have recovered Mrs N. I certainly don't think the police recovery vehicle would have been better equipped than the breakdown agent as Bastion has suggested. And there is no suggestion that any specialist equipment was used.

So, it should cover the additional costs Mrs N incurred but for its agent's error – refund the £150 highway removal cost and the £120 parking charge (subject to reasonable evidence) paying 8% simple interest in line with our usual approach for the time Mrs N has been without the money.

Plus, I think Mrs N should be compensated for the clear stress and inconvenience she faced in both having to wait in a vulnerable and difficult position at the side of the road with her young family. And for the additional stress and inconvenience faced in having to get her car removed to a compound by the police or highway patrol as opposed to simply moved to a garage for repair under the roadside assistance cover she'd bought. So, I think Bastion should pay Mrs N £150 compensation.

Replies and developments

Both sides responded. Mrs N was glad the matter had been looked into in detail and didn't wish to comment any further as she accepted the position outlined.

While Bastion's agent reiterated its position generally and said it thought there were several assumptions made within the provisional decision. It says that it has to gain all the detail it needs before agreeing the parameters of the recovery. And goes on to say it feels I have shown bias by expressing an opinion that the kind of problem Mrs N faced is '*exactly the sort of problem people buy a roadside assistance recovery policy to protect them against...*'.

Plus, Bastion said again that it feels the problem with Mrs N's car was partly in relation to the battery and feels that there clearly was a change in the vehicle after its recovery agent attended as opposed to a failure to diagnose properly. Bastion also highlighted again that the police recovery vehicle could have been better equipped than its own recovery agent.

Ultimately, Bastion maintained that the policy wording can't be ignored which says '*This policy will not apply for any claim caused by, arising from, or relating to, the following: The charges of any other company (including police recovery) other than Our Breakdown and recovery operator or of car hire or accommodation charges except for those authorised by Us.*'

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.

Having again considered everything in full I maintain that the fair and reasonable thing to do, in the particular circumstances of this case, is to uphold this complaint. I know Bastion feels that there have been assumptions and that the policy terms and conditions haven't been

considered but I can assure Bastion's agent that they have. And there has been a full consideration of all the evidence provided by both sides

Looking at the dispatch time of the recovery agent to Mrs N, who was in a vulnerable position at the side of the road with a young child and Bastion's recovery agent highlighted the dangerous position the car was in, I can see that it took Bastion over double the guide time it gives customers within its policy documentation to attend Mrs N. I know it makes the point that it needs to define the exact parameters of the recovery before arranging dispatch, but the policy dictated that a recovery agent was required. So, it could have looked into sending the recovery agent while explaining how the policy worked to Mrs N as opposed to delaying matters. And even when it had set the parameters of the recovery it still took well over the guide time to reach Mrs N. Given this, and Mrs N's vulnerable and dangerous position, it is difficult to argue that Bastion acted reasonably here. And I maintain that Mrs N and other consumers clearly buy roadside assistance or 'breakdown insurance' to cover circumstances like this – their car breaking down at the side of the road.

As I outlined in my provisional decision I can't be sure what happened in relation to the recovery of Mrs N's vehicle. However, I have no reason to doubt that the police recovery managed to get charge in the battery and move the car without specialist equipment. Bastion's recovery agent said it required skates to move the car and there is no suggestion that these were required. And although there may have been a change in how the breakdown presented I think it is clear that had Bastion's agent been able to get charge in the battery it could have moved the car in line with the policy terms. And I think, on balance, that it should have done.

Given all of this, I think the fair and reasonable thing to do, in the particular circumstances of this case is for Bastion to pay the costs Mrs N incurred and to pay her £150 compensation. I say this as had Bastion's agent managed to get charge in the battery it would have been able to move the car without the need for specialist equipment which would have been in line with the policy. And I'm satisfied that Mrs N faced a fair degree of stress, worry and inconvenience here.

My final decision

It follows, for the reasons given above, that I uphold this complaint. I require Bastion Insurance Co. Ltd to refund the £150 highway removal cost, the £120 parking charge (subject to reasonable evidence) and pay 8% simple interest from the date of claim until the date of settlement. And pay £150 compensation. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 30 August 2022.

Colin Keegan
Ombudsman