

The complaint

Mrs C complains about One Insurance Limited's (One Insurance) decision to decline her claim following a car fire and avoid (treat as if it never existed) her motor insurance policy.

Mrs C is represented by Mr I in this complaint. I will refer to Mrs C as the policy holder for ease of reading in my decision.

What happened

In May 2021 Mrs C's car was severely damaged by a fire. She made a claim to One Insurance. It inspected her car and determined it was a total loss. It subsequently wrote to Mrs C to decline her claim and avoid the policy. It says she had replaced the wheels, which constituted a modification to the vehicle. One Insurance says it doesn't provide cover for any modifications that alter the look or performance of the vehicle.

One Insurance offered Mrs C £170 compensation for delays and poor customer service when handling her claim.

Mrs C thought this was unfair. She says the wheels are the same size as the original manufacturers. They were only changed because the manufacturer's wheels kept on cracking. She says they take the same size tyres and were changed for reasons of safety not to improve the look or performance of the car. One Insurance maintained its decision, so Mrs C referred her complaint to our service.

Our investigator upheld the complaint. He didn't think Mrs C should reasonably have known the replacement wheels were a modification, as they were the same size and took the same tyres. He thought a fair outcome is that One Insurance should reconsider the claim and pays 8% interest on any settlement amount. He thought its offer of £170 compensation was fair for the claim handling issues.

One Insurance says any change from the way the vehicle was originally supplied is considered a modification. It says the wheels Mrs C has on her car aren't supplied by the manufacturer and so this is a modification. Our investigator didn't change his view. So One Insurance asked for an ombudsman to consider the complaint.

It has been passed to me to decide.

I issued a provisional decision in explaining that I was intending to uphold Mrs C's complaint. Here's what I said:

provisional findings

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

One Insurance has supplied underwriting information showing its acceptance criteria. This says no modifications to a vehicle are acceptable. One Insurance says it wouldn't have

offered cover for any car that had these replacement wheels if it had known this when the policy was agreed.

I acknowledge One Insurance's position, but Mrs C didn't have the new wheels fitted until around two months prior to the fire claim. I have seen emails from the supplier that support this, and I note One Insurance doesn't dispute this point. So, when Mrs C agreed the policy in October 2019 the car had its original wheels. This was also the case at the renewal in October 2020. So, Mrs C didn't misrepresent the information she provided to One Insurance at these times.

If Mrs C had made a misrepresentation about modifications when she took out the policy, it would've been a "qualifying misrepresentation" under the Consumer Insurance (Disclosure and Representations) Act 2012. But that doesn't apply here because the replacement wheels hadn't been fitted at either inception or renewal of the policy.

One Insurance has provided a screen shot of the information Mrs C will have seen when she applied for her policy through a comparison website. However, I don't think it's reasonable to expect her to remember what this said, well over a year later, when she had the wheels on her car replaced.

I have read Mrs C's policy renewal documents to understand what information she was given. The documents say:

"Fair Representation of Data

If your circumstances, or any other material information, have changed during the last year you must advise us before you renew your policy. If you do not this may result in your insurance being invalidated or any claims rejected. If you are in doubt about whether something is relevant, you should ask us. You must give us the new information by phone or in writing.

*Examples of material information which should be disclosed to us include:
Modifications to any component of your vehicle (especially wheels, engine or bodywork)."*

The policy's terms and conditions booklet says:

"Alterations to Your Policy

You must tell us about any of the following changes to your circumstances straight away. If you do not tell us about these changes, then your policy may no longer be valid or a claim may not be paid.

- The vehicle is changed from the manufacturer's original specification.*

...Your provider has the right not to accept your policy due to your new details not meeting their criteria. If this does happen, we will try to find another provider to cover you. Please refer to your Policy Schedule/Certificate of Motor Insurance for details of your policy and contact us if you are unsure whether you should tell us certain information."

The terms require Mrs C to notify One Insurance of any mid-term modifications to her car. It also confirms the possible consequences if she doesn't. But I don't think it's fair or reasonable for One Insurance to rely on this term unless the change substantially impacted on the risk it was insuring.

I have thought carefully about whether the modification did substantially change the risk being insured. But I don't accept the replacement wheels did this. I'm not persuaded the

modification to replace the wheels with those of the same size, was a breach that made it fair and reasonable to decline the claim and cancel the policy back to the date the vehicle was altered.

In these circumstances I'm minded to direct that One Insurance reconsiders Mrs C's claim without reliance on the modification term.

One Insurance has sent an engineer's report that confirms the vehicle was a total loss, because of the extent of the fire damage. In offering any settlement payment, I think it's fair that One Insurance adds 8% simple interest from the date of the loss until a payment is made.

I'm mindful of the impact the policy cancellation may have on Mrs C's current and future insurance. So, my intention is to direct One Insurance to write a letter to Mrs C (which she may show to current or future insurers) saying that it cancelled the policy in error and it has taken all reasonable steps to remove any adverse entry from its internal databases and any external databases to which it has reported the cancellation.

Mrs C says she had to arrange financing a replacement car using a lump sum obtained via a pension. I'm glad she was in a position to be able to buy a replacement car, but I accept her comment that this isn't something she planned to do.

I think the interest on the delayed settlement payment is fair to acknowledge the alternative funding that was required. But I accept this has also caused additional hassle and inconvenience. I will refer to this later on in my decision.

Mrs C says she incurred costs in hiring a car whilst she was waiting for One Insurance to respond to her claim. The policy terms do provide for a courtesy car in the event that a repair is undertaken, but not where the car is a total loss.

I have thought about the time taken to inform Mrs C that her car was written off, and the impact this had. I can see the business refers to a cyber issue that caused delays in it processing the claim and in providing updates and responses. From the notes Mrs C called One Insurance 11 days after making her claim – at which time she was told her car was considered a write-off. It took a while longer to deal with the claim in full, due to the system problems the business experienced around this time. But she was made aware her car was a total loss within 11 days of her claim.

The policy doesn't provide for a courtesy car or hire car in the event of a total loss claim. Mrs C was made aware the car was considered a total loss. Although I acknowledge she paid for a hire car herself – I don't think it's fair to ask One Insurance to pay for this. Mrs C's car needed replacing regardless of the claim outcome. So, although I don't think it was reasonable for One Insurance to decline the claim for the reasons it gave, I also don't think it is responsible for costs relating to a hire car in these circumstances.

I have thought about the £170 compensation One Insurance offered. But I don't think this adequately reflects the issues Mrs C experienced. I can understand her frustration that she thought she had acted responsibly when replacing the defective car wheels. It must have been worrying to be told her loss wasn't covered by her policy because of this. I also acknowledge the hassle and inconvenience involved in sourcing funds and to buy a replacement car. In addition, to the delays she experienced due to the cyber issue, including a lack of information when she called and a lack of updates from the business.

When considering all of this I don't think One Insurance treated Mrs C fairly when declining her claim and avoiding her policy. It should now reconsider the claim without reliance on the

modification exclusion, pay Mrs C £350 compensation for the worry and inconvenience caused, and provide a letter confirming the policy was cancelled in error.

I said I was intending to uphold this complaint and that One Insurance Limited should:

- meet Mrs C's claim without reliance on any term relating to vehicle modification but otherwise in line with the policy terms; and
- insofar as it makes a payment in settlement of Mrs C's claim, add interest at the simple rate of 8% from the date of the claim to the date of its settlement. If One Insurance considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mrs C how much it's taken off. It should also give Mrs C a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate;
- pay Mrs C £350 compensation for the worry and inconvenience it caused her: and
- write a letter to Mrs C (which she may show to current or future insurers) saying that it cancelled the policy in error, and it has taken all reasonable steps to remove any adverse entry from its internal databases and any external databases to which it has reported the cancellation.

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

One Insurance didn't respond with further comment or information for me to consider.

Mrs C responded to reiterate the circumstances of her complaint and express her frustration with One Insurance's lack of meaningful response to her correspondence.

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.

One Insurance hasn't provided any comments or information for me to consider. The further comments Mrs C has provided don't add anything new to the circumstances I considered in my provisional decision.

As neither party has made any further submissions or evidence that necessitate a change my provisional findings, my final decision is the same as my provisional decision and for the same reasons.

My final decision

For the reasons I've given above and in my provisional decision, I uphold Mrs C's complaint and One Insurance Limited should:

- meet Mrs C's claim without reliance on any term relating to vehicle modification but otherwise in line with the policy terms; and
- insofar as it makes a payment in settlement of Mrs C's claim, add interest at the simple rate of 8% from the date of the claim to the date of its settlement. If One Insurance considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mrs C how much it's taken off. It should also give

Mrs C a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate;

- pay Mrs C £350 compensation for the worry and inconvenience it caused her: and
- write a letter to Mrs C (which she may show to current or future insurers) saying that it cancelled the policy in error, and it has taken all reasonable steps to remove any adverse entry from its internal databases and any external databases to which it has reported the cancellation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 13 September 2022.

Mike Waldron
Ombudsman