

## The complaint

Mrs P complains that U K Insurance Limited (UKI) didn't offer her the market value for her car following a claim made on her motor insurance policy.

## What happened

Mrs P's car was deemed to be a total loss following an accident. The car was on contract hire and UKI settled the claim for the car's total loss with the finance company that owned the car. Mrs P was unhappy that UKI hadn't paid the car's market value. But UKI said that Mrs P wasn't the car's legal owner and couldn't dispute the settlement.

Our Investigator recommended that the complaint should be upheld in part. She thought UKI had acted within the policy's terms and conditions when it made the settlement with the finance company. She thought Mrs P wasn't the car's legal owner and wasn't entitled to its market value.

But she thought Mrs P had suffered a loss as UKI hadn't considered the deposit she had paid and that she would need another deposit to replace her car before the contract should have ended. So she thought UKI should pay Mrs P a pro-rata amount of her deposit, with interest.

UKI replied that it couldn't see that Mrs P had paid an initial deposit. It said that any initial payment Mrs P paid was a consequential loss that she would have to bear.

## 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 can understand that Mrs P felt disappointed that the settlement for the loss of her car wasn't for the car's market value. She has explained that this is how she understood her policy's terms and conditions. And she thought the settlement was below the car's market value.

Our approach in cases like this is to consider whether the insurer's acted in line with the terms and conditions of the policy and fairly and reasonably.

I can see that on page 6 of the policy booklet, it is stated:

***" If you're leasing your car or buying on hire Purchase***

***If your car can't be repaired and you're leasing it, we'll pay any claims to the lease company, because they are the legal owners of the car.***

***If your car can't be repaired and you're buying it on hire purchase or a similar agreement, we'll pay any claims to the legal owner. We'll only pay any remaining balance to you if you have the option to become the full owner at the end of the agreement."***

Mrs P's lease agreement with her finance provider states on page 11,

**"6. YOUR INSURANCE OBLIGATIONS**

*(b) If the Vehicle is stolen or becomes a total loss you assign to Us the right to receive any monies due from the insurers (allowing the insurer to make payment directly to Us) and:*

*(iii) You agree that, where We elect to do so in our sole discretion, We are authorised to negotiate settlement values with the insurer on Your behalf.*

I'm satisfied that these terms make it clear that any negotiations regarding settlement figures are between UKI and the finance provider. And so I think UKI acted in line with the terms of policy as the finance company was the car's legal owner, not Mrs P. And I'm satisfied that as Mrs P wasn't the car's legal owner, she wasn't entitled to its market value.

But we don't think this is necessarily fair and reasonable. Our approach is that such a settlement can cause a customer to lose out. This is where the customer has paid a deposit (often some months' worth of lease payments up front) and they won't get some or all of it back. And to lease a new car the customer would need to find a new deposit earlier than planned.

UKI has argued that Mrs P didn't pay a deposit as that word isn't used in her lease agreement. But I disagree. I can see that Mrs P paid an "initial payment" which was greater than the monthly hire charges. And I think this can reasonably be regarded as a deposit that Mrs P paid.

So I think Mrs P lost out as she didn't have the full benefit of her initial payment. And so I think UKI's settlement of the claim has led to an unfair outcome for Mrs P. And I'm satisfied that the fairest outcome is for UKI to also pay Mrs P a pro-rata amount of her deposit to make sure she doesn't lose out. Mrs P has been without her money for some time. So I think interest should reasonably be added to this amount.

### **Putting things right**

I require U K Insurance Limited to pay Mrs P a pro-rata amount of her deposit, or initial payment, discounting the VAT element if included. It should add interest to this amount at the rate of 8% simple per annum from the date of the settlement to the date payment is made.

If UKI considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs P how much it's taken off. It should also give Mrs P a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

For the reasons given above, my final decision is that I uphold this complaint in part. I require U K Insurance Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 18 November 2022.

Phillip Berechree  
**Ombudsman**