

The complaint

Mr S has complained about the way his motor insurer, Highway Insurance Company Limited ("Highway") dealt with a claim he made on his policy including the delays he experienced in his car being repaired and in him being provided with a courtesy car.

All references to Highway include its agents.

What happened

In December 2021 Mr S's car was stolen but was recovered a few days later by the police. Mr S reported this to Highway who collected the car so it could be repaired.

Mr S was unhappy with how his claim was being handled and with the lack of progress. He complained to Highway at various points about delays in his car being repaired and also about the courtesy car he was given; including the length of time he had it for and the fact that it was significantly smaller than his own car. He was also unhappy about the lack of updates he was getting from Highway.

Highway agreed there were some delays it was responsible for and accepted that it could have kept Mr S more up to date. It paid him £350 in compensation overall. Nevertheless, it said that a lot of the delays were down to a global lack of availability of replacement car parts which was outside its control.

Mr S then brought his complaint to us. Among other things he said:

- Initially the biggest problem was the lack of communication which meant he had to keep chasing Highway for updates.
- Highway's phones were always busy, he had to wait a long time to speak to someone and was often disconnected while waiting.
- Highway had provided him and other parties with misleading information.
- While the repairs were still ongoing Highway stopped providing him with a courtesy car.
- Highway tried to return his car before it was fully repaired and without warning him.

Mr S said he wanted Highway to continue to provide him with a courtesy car or to pay him compensation for the trouble and stress it caused him and to cover some of his travel costs. He said he considered £1,500 to be a fair amount. Mr S also said he had to buy another car so he could carry on with his life and work as normal and that this cost him £1,654.76. He said he wanted to be reimbursed for this and that this would cost less than what Highway was paying towards the courtesy car.

Our Investigator initially didn't think the complaint should be upheld. She said the delay in the availability of parts which led to the repair delays was not within Highway's control. She also thought that Highway ensured Mr S was in a courtesy car while his car was in for repairs and that this was fair and reasonable. She didn't think that Highway should have extended the hire period beyond May 2022 as at this point Mr S's car was safe to drive and roadworthy and added that the £350 compensation Highway had paid Mr S for its service

and delays was fair and reasonable. Our Investigator also didn't think Mr S was entitled to a courtesy car at all under the terms of his policy.

Mr S didn't agree. His comments included the fact he believed was entitled to a courtesy car under his policy and that Highway didn't question this. He added that, most importantly, he didn't agree that his car had been fully repaired in May 2022 as the SOS button was missing and said that Highway breached its contract with him.

Our Investigator then issued a further view in which she said she thought that Mr S was entitled to compensation of £40 for the loss of use of his car over four days he was without a courtesy car while his was still being repaired. Highway agreed with this but Mr S didn't. He said our Investigator failed to collect all the relevant evidence and accepted Highway's arguments without evidence. He also questioned why our Investigator felt that Highway should pay £10 per day for the loss of use of his car when it had previously said to him it was prepared to pay £20. Our Investigator explained that this is our usual approach which is based on what a court would award. Mr S then asked for an Ombudsman's decision.

Before I issued my decision I asked our Investigator to notify Highway that I was minded to award compensation for loss of use over the same period she did but I would ask it to pay £20 per day as this is what it had offered Mr S. Highway agreed. Our Investigator also informed Mr S of this but he didn't come back with any comments.

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 done so I've decided to uphold it.

What I will consider in this decision

I appreciate that Mr S has made a number of points regarding this complaint. I have considered them all but, in this decision, I will focus on the ones I consider to be the most important. I will also not go into too much detail about the events that took place and will not refer to all the relevant dates as our decisions are anonymised and consumers should not be able to be identified from them.

I further understand that since the complaint came to us Mr S has had his car back, but he is unhappy with the quality of the repairs. As this wasn't part of his original complaint, as our Investigator said, he will have to raise this with Highway first. If he is unhappy with its response, he can bring his complaint to us.

As Mr S pointed out Highway did provide him with a courtesy car so I will not go on to consider whether he was entitled to one under the policy or not.

Timeline

Mr S's car was stolen in December 2019 and recovered five days later. He reported his claim to Highway the day the car was stolen. The claim was validated two days later. The car was recovered from the police by Highway though I acknowledge Mr S had called in the meantime to chase. Hire started on the day Mr S's car was recovered and taken to a garage. The garage quickly acknowledged that it didn't have the capability to carry out the repairs for this particular car as it was a fairly new car. There were then some delays in Highway finding another garage as most garages were closed due to the holidays. Up to this point I don't think there were any significant delays or any delays that Highway was responsible for.

Highway's engineer said he wanted an inspection to be carried out and this was done at the old garage but a report didn't become available until later. And it seems there was roughly a 15 day delay from the day the inspection took place to the day the car was moved to the new garage with nothing being done in the meantime. I think this delay was down to Highway and its agents.

Mr S was then notified that hire would end and complained to Highway about this and the delays. Highway agreed to extend the hire and upheld Mr S's complaint on 31 January 2022 about the delays and lack of updates and paid him £250 compensation. I think this was fair and reasonable in the circumstances.

There then were some further delays in the repairs being authorised and Mr S called Highway to say he had spoken to the new garage who said they were still waiting for authorisation to proceed. It appears repairs were authorised by 11 February 2022 but no report was available. Mr S complained again and Highway upheld his complaint and paid a further £100 in compensation. I think this was, again, fair and reasonable.

Mr S complained again in March 2022 about further delays and asked for Highway to declare his car a total loss and pay him its market value. Highway said that the garage was still waiting for parts but had no estimate as to when those would be received. Mr S complained again in April and said he wanted a courtesy car that was comparable to the size of his car (as the courtesy car was small). Highway responded to Mr S's complaint and said the cost of repairs was much lower than the value of the car so it wouldn't be declaring the car a total loss. It added that the lack of availability of car parts was outside its control and also that Mr S wasn't entitled to a larger courtesy car.

Mr S's policy, like most motor insurance policies I am aware of which cover the provision of a courtesy car, says that the courtesy car will be a small hatch back, typically with a one litre engine capacity. For this reason, I don't think Highway was obliged to provide Mr S with a larger courtesy car. In relation to declaring the car a total loss, as Highway didn't consider the car to be uneconomical to repair, I think it acted fairly and reasonably in not declaring the car a total loss.

Hire stopped for four days in May 2022 as the garage had told Highway that repairs were nearing completion. Mr S was due to go on holiday and Highway agreed to extend hire until the end of May, which was after the car was considered to have been repaired. I agree with our Investigator who said that Highway should compensate Mr S for the four days he was without the courtesy car over this period. As I have already said Highway has agreed to this and agreed to pay £20 per day, which would total £80.

Highway says that it didn't extend hire beyond this point as Mr S's car had been repaired and was safe and driveable. It said the only part missing was the SOS button which was being sourced from China which was in lockdown at the time. Highway tried to return the car to Mr S but he didn't accept it as he said it hadn't been repaired and that Highway had breached its contract with him. Mr S also said he bought another car in May 2022 so he could go to work. Highway issued a further complaint response in June 2022 saying it wouldn't agree to any further hire costs and offered to carry out a temporary repair of the SOS button.

I appreciate that Mr S feels his car wasn't fully repaired in May and that this meant hire had to be extended but I respectfully disagree. I think Highway was entitled to rely on the expert opinion of its garage which said the car was safe and driveable at that point. The policy doesn't define "repair" but the dictionary definition is "to put something that is damaged, broken or not working correctly, back into good condition or make it work again". Mr S's car was put back in a good condition as, according to the garage it was safe and driveable, and

this also meant that it worked again. As our Investigator pointed out a lot of other cars don't have SOS buttons and this is not an MOT requirement either. In the circumstances I think Highway had repaired the car in May.

Even if I did agree with Mr S's argument, which I don't, I think that he had a duty to mitigate/minimise his losses which is something he failed to do. I don't think he mitigated his losses by buying another car and refusing to take his car back. I think in these circumstances mitigation would have amounted to him accepting the return of his car which was safe to drive and potentially agreeing to a temporary repair of the SOS button as offered by Highway. For this reason, I don't think Highway should reimburse him for the cost of the second car that he bought.

Overall, I can see that there were times where Highway's communication with Mr S could have been better and also where it could have chased the garage for updates and moved the car to another garage more promptly. Nevertheless, I note the majority of the delays were down to the lack of availability of parts for Mr S's car. I don't think this was down to Highway or its garage and for that reason I don't think it needs to pay any further compensation beyond the £350 it has already paid Mr S other than the £80 loss of use payment I mentioned above. I appreciate that this particular repair took an unusually long time to be completed but these things can happen and have happened more in the past two years since the start of the Covid-19 pandemic when several countries went into lockdown.

I appreciate that Mr S will be disappointed with this decision. I appreciate that he, through no fault of his own, found himself in a very unfortunate and frustrating situation. I have also seen that Mr S has put in a lot of effort in bringing his complaint to us and provided well constructed and well argued points to us and to Highway. But for the reasons I have given I don't think Highway must pay Mr S the compensation he has asked for.

My final decision

For the reasons above I have decided to uphold this complaint. Highway Insurance Company Limited must pay Mr S £80 compensation for the loss of use of his car. This is in addition to the £350 compensation it has already paid to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 February 2023.

Anastasia Serdari
Ombudsman