

## **The complaint**

Mr M has complained about the way his insurer, Helvetia Global Solutions Ltd ("Helvetia"), dealt with a claim he made on his motor breakdown insurance policy.

Helvetia is the underwriter of this policy i.e., the insurer. Part of this complaint concerns the actions of another company who acts as its agent. As Helvetia has accepted it is accountable for the actions of the agent, in my decision, any reference to Helvetia includes the actions of the agent.

## **What happened**

In May 2022 Mr M made a claim on his breakdown policy when the chain came off his motorbike while he was riding it on a main road at two in the morning. He stopped by the side of the road and waited to be recovered.

Helvetia approved the claim and told Mr M it would try to find a recovery company so he could be recovered to a local garage but due to the time of the incident this was proving difficult.

A few hours went by, and the handler Mr M had been liaising with finished their shift and a new handler took over. The new handler told Mr M that the policy wouldn't cover him and that he had to pay £200 to be recovered. He said the reason for this was because there had been an advisory on Mr M's bike's last MOT (a Ministry of Transport safety test) which said that the chain should be replaced. The handler said because this hadn't been done, the motorbike was not roadworthy.

Mr M refused to pay and complained about the way the claim had been handled. In the meantime, he managed to reattach the chain himself and spoke to a dealership who talked him through how to start the motorbike at no cost.

Helvetia didn't uphold Mr M's complaint and said he had breached his policy terms. It relied on an exclusion in the policy which says that breakdowns caused by failure to maintain the vehicle in a roadworthy condition, including maintenance, are excluded. It also relied on a condition which says that it may terminate a policy immediately if the vehicle is found to be unroadworthy due to lack of maintenance. It acknowledged that it delayed rejecting Mr M's complaint and offered him £20 compensation which he declined.

Mr M wasn't happy and complained to us. He said Helvetia provided him with a poor service and should have honoured the offer to arrange a recovery made by the first claims handler. He added that:

- Helvetia showed no consideration for his safety bearing in mind he was stranded on the side of the road in the middle of the night and neither did the garages it has contracts with.
- The claim was wrongly declined as he had not failed to properly maintain his motorbike and had receipts to support this. He said the second handler he spoke to didn't ask to see the receipts and based his decision solely on the MOT.

- The chain was adjusted after the MOT was carried out on the advice of the dealership who had carried out the MOT.
- He wanted Helvetia to provide him with genuine compensation based on the time he wasted and the dangers he was exposed to.
- He wanted us to look into the process by which insurers arrange contracts with local garages as it appears they are not always able to provide the service the insured has paid for.

Helvetia told us that Mr M had agreed to wait in his brother's van with his brother while a recovery agent was being located. It added that it spoke to a local repairer about whether the fault could be linked to the MOT advisory and was told that it was possible a worn chain had caused the fault. Finally, it said that even if the claim had been declined from the start by the first handler Mr M would not have been able to take the motorbike to a garage for repair due to the time of the incident and it is more likely than not that he would have had to stay in the van until the following morning in any event.

Our Investigator who reviewed the complaint didn't think it should be upheld and that Helvetia had declined the claim in line with its policy terms.

Mr M didn't agree and asked for an Ombudsman's decision. He said the motorbike hadn't been poorly maintained and that he had followed dealership's advice that the chain didn't need to be replaced. He added that the policy didn't require him to have a valid MOT with no advisories. He said if he'd known his claim was declined from the start, he would have likely attempted to repair the chain straightaway and looked at other options.

Before I issued my decision, I asked our Investigator to write to both parties to let them know that I was considering upholding the complaint and awarding Mr M £150 compensation for the distress and inconvenience he was caused. I said I thought the service Mr M had received was poor and I also thought the claim had been turned down unfairly. I gave the following reasons:

- I didn't think Helvetia acted fairly and reasonably in saying that Mr M failed to maintain his motorbike and thereby rejecting the claim. Mr M provided evidence to show that his bike was serviced on the same day as the MOT which was only a month or so before his breakdown. From the invoices he had provided it appeared that when the bike was serviced by the dealership Mr M was advised that the chain needed to be adjusted. And it appears that this took place on the same day. I noted that Mr M also authorised other repairs on the same day for items that came up as advisories on his MOT such as his brake pads which were replaced on the same day. So I thought Mr M took reasonable steps, bearing in mind the expert advice he received from the dealership, to make sure his motorbike was safe and roadworthy.
- I thought Helvetia should have honoured the first handler's decision that Mr M had a valid claim. I said this was because Mr M was led to believe he was covered and between the hours of 02:02 and 09:10 he relied on this statement and stayed by his bike waiting for a recovery vehicle. I thought that had Mr M been told from the start that he wasn't covered (which I didn't think would have been correct in any event) he would have made other arrangements to get back on the road. I said that was because when he was told he wasn't covered he managed to put the chain back himself and restart the bike with the help of a dealership.
- I was pleased to note that Mr M managed to get back on the road without incurring any third party expenses. Nevertheless, I thought the Helvetia's poor handling of the claim which included unfairly turning down the claim, giving Mr M the impression that he would be recovered which meant he stayed at the roadside for several hours overnight, to have caused him distress and inconvenience. And for those reasons I thought it should pay him £150 compensation.

- Finally, I noted Mr M wanted us to comment on Helvetia's contracts with local garages and to look into the reasons why no local garage was able to assist overnight. I said insurers' general business practices aren't something we can look into as our role is to look at specific individual complaints. But I thought this was something Mr M could potentially raise with the regulator, the Financial Conduct Authority.

We asked both parties to respond within 14 days. Helvetia didn't respond. I asked our Investigator to write to it to let it know that I was now proceeding with my decision. Mr M agreed with my comments. He asked how I'd arrived at the £150 compensation award. He also asked for me to consider whether he should also be compensated for the cost of his policy (£92.41) and any onward travel expenses he might have incurred.

Our Investigator responded to Mr M to say that we don't use an exact formula to arrive at a compensation award for distress and inconvenience. She added that the compensation was not in order to pay back what he had paid for the policy as that was something he'd agreed to pay when he took the policy out. She said the compensation I had recommended was for the distress and inconvenience he'd experienced in the way his complaint was handled.

### **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 have decided to uphold it.

The starting point is the policy. It says that Helvetia may offer assistance on a pay-on-use basis where a claim is declined. It also says it will always decline to provide service for pre-existing or non-repaired faults (receipts will be required to evidence a repair). Under General Exclusions it also says that any incident which is subsequently found to be a result of poor maintenance or lack of servicing will be excluded.

Mr M made the claim around two in the morning. Helvetia's notes show that checks were carried out including the fact that the motorbike had been taxed and had a valid MOT. The notes show that the claim was "activated" around fifteen minutes later and Helvetia's handler started searching for a recovery company. It appears that all requests were declined by the relevant garages. Helvetia called Mr M at 03:21am to say it wasn't able to find a recovery service. Mr M called about four hours later and asked for an update. He was told Helvetia would start looking for a garage between 08:30am and 09:00am when they started to open. At around 09:00am a further tax and MOT check was carried out by the new handler. Helvetia called Mr M to ask if he had replaced his chain since his MOT the previous month. Mr M said he hadn't as the dealership who did the MOT told him the chain was ok for now. Helvetia said it should have been replaced and as it wasn't it wouldn't cover the claim due to poor maintenance.

Mr M provided evidence which shows that the MOT advised that the chain was worn but that this was not considered to be excessive. Mr M provided invoices to show that his motorbike was serviced on the same day as the MOT which was only a month or so before his breakdown. From the invoices it appears that when the bike was serviced by the dealership Mr M was advised that the chain needed to be adjusted. And it appears that this took place on the same day.

I note that Mr M also authorised other repairs on the same day for items that came up as advisories on his MOT such as his brake pads which were replaced on the same day. So I think Mr M took reasonable steps, bearing in mind the expert advice he received from the dealership, to make sure his bike was safe and roadworthy. For this reason I don't think

Helvetia acted fairly or reasonably in determining that the bike wasn't maintained in a roadworthy condition by Mr M and thereby rejecting his claim.

I appreciate that had the claim been covered Mr M would have still had to wait several hours before he was recovered. But he wouldn't have had to repair the chain himself which I understand was difficult and messy. And he wouldn't have gone through the distress of being told that he had failed to maintain his bike which led to his claim being rejected.

Even if I were to agree with Helvetia that Mr M failed to maintain his bike, which I don't, I think it should have honoured the first handler's decision that Mr M had a valid claim. I say this because, in the specific circumstances, I think it took too long to reverse its decision. Mr M was led to believe he was covered between the hours of 02:02am and 09:10am and he relied on this statement and stayed by his bike waiting for a recovery vehicle. Had Mr M been told from the start that he wasn't covered (which I don't think would have been correct in any event) he would have made other arrangements to get back on the road. I say that because when he was told he wasn't covered he managed to put the chain back himself. I appreciate he may not have gotten through to the dealership until the morning but I think if he'd been told early on he would have looked at other options if given the opportunity to try-bearing in mind he managed to fix the chain himself.

I think Helvetia's poor handling of the claim which includes unfairly turning down the claim, giving Mr M the impression that he would be recovered and changing its mind several hours later to have caused him distress and inconvenience. And for these reasons I think it should pay him £150 compensation.

Mr M asked how I'd arrived at this amount. As our investigator said we don't use a formula to arrive at our compensation awards for distress and inconvenience. But we consider things such as the length of time the inconvenience was caused for and the impact this had on the individual consumer. There are more details about our awards on our website. I'm satisfied that £150 is in line with other awards we've made in similar circumstances. I think it's fair and reasonable in the circumstances here.

Mr M asked whether I would consider refunding his premium and also asking Helvetia to pay for some of the onward travel costs he would have incurred. As he didn't incur any costs I won't consider awarding any. And as he had a valid policy that, I think, he could otherwise claim under I won't be asking Helvetia to refund his premium.

### **My final decision**

For the reasons above, I have decided to uphold this complaint. Helvetia Global Solutions Ltd must pay Mr M £150 for the distress and inconvenience it caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 3 March 2023.

Anastasia Serdari  
**Ombudsman**