

## **The complaint**

Mr C complains that AWP P&C SA unfairly turned down his claim on his mechanical breakdown insurance policy.

## **What happened**

Mr C has a manufacturer's extended warranty which is provided by AWP. The heating in Mr C's car stopped working so he took it to the manufacturing garage. He said they told him the heating element needed replacing as it was no longer working. Because of this Mr C claimed on his policy with AWP.

AWP reviewed the claim and declined it. It said the part hadn't suffered a sudden and unexpected mechanical failure and so wasn't covered by the policy. AWP said this was because there was sand in the heating element and so the failure wasn't covered. Mr C didn't think this was fair and complained.

AWP reviewed the complaint and said as the failure was due to an outside influence it wasn't covered under the policy. Mr C wasn't happy with AWP's response and so referred his complaint here. When the complaint was referred here AWP let us know that it could possibly fix the issue by "flushing" the heating system at a cost of £450 which it said it would cover. Our investigator let Mr C know about this offer, which he declined. He said neither the manufacturing garage nor the independent engineer had recommended flushing the system and so he wasn't happy to accept a flush as a way to fix his car.

Our investigator reviewed the complaint and recommended it be upheld. She found that Mr C's heating system has suffered a sudden mechanical failure at the point the part which had failed stopped working, and so thought it was covered by the policy. She also found that AWP hadn't said which exclusion or condition applied to show the claim wasn't covered. She also thought it was fair for AWP to repair Mr C's car, as recommended by the independent report and the manufacturing garage. Because of this she recommended AWP pay Mr C's claim as recommended by the manufacturing garage, pay Mr C what he paid for the engineer's report (£210) and also pay Mr C £300 for distress and inconvenience.

AWP didn't agree. It said the heater matrix hadn't actually failed but was instead blocked which had been caused by an outside influence and referred to casting sand left over from the manufacturing process.

## **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.

Mr C's policy covers him for the costs of repairing or replacing parts of his car which have suffered an "electrical or mechanical failure". The policy covers all factory fitted mechanical or electrical components except for those which are specifically excluded. The heating components aren't something which are excluded under the policy, I've therefore looked to see if the parts of Mr C's car which need replacing have met the policy definition of an

insured peril. The policy defines “electrical or mechanical failure” as:

*“The unexpected failure of a component which is covered by the warranty section of this insurance and which needs immediate repair or replacement. We will cover wear and tear components up to 100,000 miles.”*

AWP has said the heater matrix hasn’t actually failed but is blocked. It goes onto say this is from an outside influence and refers to casting sand left over from the manufacturing process. I’ve considered this but I don’t agree it hasn’t suffered a electrical or mechanical failure. I say this because from looking at the term I think a fair and reasonable interpretation is to say a part has failed if it needs repairing or replacing for it to carry out its normal function. It’s not disputed that Mr C’s heating in the car isn’t working and stopped working unexpectedly. I’ve also considered the engineer’s report he’s provided which says that parts need replacing in order for the issue to be fixed.

I’m therefore satisfied that the fault with Mr C’s heating is due to a part or parts failing unexpectedly which need replacing in order for the heating to work correctly. It follows that I’m satisfied Mr C’s car has suffered an electrical or mechanical failure as defined by the policy. As Mr C has shown an insured peril has occurred the onus then falls to AWP to show it wouldn’t be covered due to an exclusion in the policy. AWP has said it’s failed due to an external factor and refers to casting sand left over from manufacturing. AWP has been asked to explain which exclusion or term it’s relying upon, but it hasn’t pointed to one.

As AWP hasn’t provided a term or exclusion to rely upon to decline Mr C’s claim I’m not satisfied AWP has shown it’s fair and reasonable to turn it down. And as I’m persuaded Mr C’s car has suffered an electrical or mechanical failure as defined by the policy AWP needs to pay for the repair to Mr C’s car in line with the remaining terms and conditions of the policy.

Mr C has also paid £210 for an engineer’s report and as I’m satisfied AWP hasn’t shown it’s acted fairly and reasonably by turning down the claim it should cover the cost Mr C paid for the report as he wouldn’t have needed to pay for the report if AWP had accepted the claim as it should have done. AWP should also add 8% simple interest per year to this amount to compensate Mr C for not having the money, calculated from the date Mr C paid for the report until the date of payment.

The fault with Mr C’s heating has also been going on for two winters meaning that Mr C has been unable to use his car for some periods of time due to the fault. This has clearly caused unnecessary distress and inconvenience to Mr C. To compensate Mr C for this unnecessary distress and inconvenience AWP should pay him £300.

### **My final decision**

For the reasons explained above, I uphold this complaint. I require AWP P&C SA to:

1. Pay Mr C’s claim in line with the remaining terms and conditions of the policy
2. Pay Mr C £210 for the engineer’s report. 8% simple interest per year should be added to this amount, calculated from the date Mr C paid for the report until the date of payment
3. Pay Mr C £300 for distress and inconvenience

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C to accept or

reject my decision before 12 April 2023.

Alex Newman  
**Ombudsman**