

The complaint

Miss C complains about Markerstudy Insurance Company Limited's ("Markerstudy") handling of her car insurance claim.

What happened

Miss C was involved in a car accident which she reported to Markerstudy. Miss C's car was deemed a total loss, but she says Markerstudy took two months to decide how to settle the claim and her car wasn't even assessed until a month into the claim. Miss C complained about the delay and also about not being given a courtesy car and about Markerstudy's lack of communication with her. Markerstudy responded and explained they were satisfied their in-house engineers and approved repairers followed the correct process but accepted the decision on total loss could've been made sooner. So, as well as apologising, they paid £150 compensation to Miss C. Markerstudy said they understand Miss C was without a car for this period, but their terms and conditions say a courtesy car is provided, subject to availability, when repairs are being carried out – and that wasn't the case here.

During our investigation, Markerstudy agreed to our service looking into an additional complaint point. Miss C says she was initially told her excess would be waived, but this was later deducted from her claim settlement.

Our investigator looked into things for Miss C. He thought Markerstudy's compensation of £150 was fair for the delay but recommended they pay an additional £150 for miscommunication relating to Miss C's excess. Miss C disagreed so the matter has come to me for a decision.

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 the complaint. And, I think the investigator's recommendation here is a fair way to resolve matters. I understand Miss C will be disappointed by this but I'll explain why I have made this decision.

Delays

My role requires me to say how a complaint should be settled quickly and with minimal formality and so I'll focus on what I consider to be the crux of the complaint and the main areas of dispute.

The key facts about the part of the complaint relating to Markerstudy's delays in deciding whether Miss C's car was repairable or a total loss aren't in dispute. Markerstudy have admitted they got things wrong and have paid £150 which Miss C has received and accepted. Looking at the impact to Miss C, I think £150 is fair and reasonable in the circumstances. There's no dispute between the parties about this, so I've looked at the remaining parts of Miss C's complaint.

Courtesy car

I understand Miss C feels Markerstudy should've given her a courtesy car and the claim notes provided by Markerstudy show Miss C was asking for this. Miss C's car insurance policy booklet sets out the terms and conditions and defines a courtesy car as "*A car loaned to you by our approved repairer whilst the insured vehicle is being repaired...*" It goes further to say, if a valid claim is made under the policy, and the insured vehicle is to be repaired, Markerstudy will provide a courtesy car for the duration of the repairs, but this is "*subject to availability.*" I am sorry to learn about the disruption and inconvenience caused to Miss C during the period she didn't have a car, but I can't say Markerstudy have made an error here.

While there was delay caused by Markerstudy in deciding whether to repair or write-off Miss C's car, it's important to note no repairs were ever started. So, on this basis, and in line with the terms and conditions, Markerstudy didn't have to provide a courtesy car. I can see however a request was made by Markerstudy to their approved repairer to provide Miss C with a courtesy car. Markerstudy say the approved repairer confirmed they didn't have a courtesy car available at the time due to a nationwide shortage of courtesy cars. And because they later decided Miss C's car was beyond economical repair, there's no provision in the policy for a courtesy car at this point.

Communication

I do acknowledge Miss C's frustration over the period where Markerstudy were considering repairs or total loss of her car. I've looked at the claim notes and this does demonstrate regular contact between Miss C and Markerstudy. I accept there were a number of occasions where the contact was instigated by Miss C, but I can't hold Markerstudy responsible for a lack of communication if Miss C contacted them before they were able to proactively update Miss C. I do understand why Miss C was contacting Markerstudy to ensure things were moving forward and I can see Miss C was given updates during her contact with Markerstudy. So, from the information I've seen, I don't think Markerstudy's level of communication with Miss C was unreasonable.

Excess

I understand the payment of the policy excess of £500 is Miss C's main area of dispute. I acknowledge Miss C says she was assured her excess would be waived but Markerstudy have gone against this. I do understand why Miss C is upset because I've seen a text message sent to her by Markerstudy which says her excess has been waived. This was sent after Miss C had reported the accident circumstances, so I do acknowledge why this led her to believe this was going to be treated as a non-fault accident – and therefore why her excess was being waived. Markerstudy accept they made an error and the text message shouldn't have said the excess was being waived. They say it's not possible to waive or refund the excess until they have an admission of liability and the claim is fully settled with the third-party insurer. The information I've seen shows the claim is ongoing with liability still in dispute.

The policy booklet defines excess as "*An amount you have to pay towards the cost of a claim...*" and "*You have to pay this amount regardless of the circumstances leading to the claim.*" The terms and conditions go further and explain how Markerstudy settle claims. This section says Markerstudy won't pay more than the market value of the car, less the excess. So, taking this into account, I don't think it was unreasonable – or against the terms and conditions – for Markerstudy to deduct the excess from the claim settlement. That said, I do think Miss C has been given conflicting information. At the point the text message was sent, there wasn't any liability admission and the claim also wasn't settled with the third-party

insurer. So, I believe Markerstudy's comment about the excess being waived was an error. But Miss C was led to believe it had been waived and she was left upset and frustrated when Markerstudy later informed her the excess was payable. And I think Markerstudy should pay an additional £150 compensation for the impact of this.

Putting things right

I've taken the view that Markerstudy have delayed in deciding how to settle Miss C's car claim and also miscommunication relating to the excess. So, in addition to the £150 already paid, they should pay an additional £150 for the upset and frustration – bringing the total paid for this complaint to £300.

My final decision

My final decision is that I uphold the complaint. Markerstudy Insurance Company Limited have already paid £150 compensation – so they must pay Miss C an additional £150 to bring the total amount of compensation paid to £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 21 April 2023.

Paviter Dhaddy
Ombudsman