

The complaint

Mr L has complained about the poor service he received from Wakam when he made a claim under his private hire motor insurance policy.

What happened

On 22 January 2022 Mr L was involved in an incident and he made a claim to his insurer, Wakam. Mr L's car was moved to a dealership garage.

Mr L is a taxi driver and said he was unable to work while he didn't have use of a car. He wanted Wakam to provide him with a replacement car. He was unhappy Wakam referred him to another business where he held a car hire replacement policy.

This service is dealing with a separate complaint Mr L has raised against the broker who he says mis-sold the car hire replacement policy to him.

Mr L complained about the delay Wakam caused when deciding to settle his claim. He said it took almost three months for Wakam to decide his car was a total loss. Wakam arranged for his car to be moved from the dealership garage to an approved repairer (AR). But after some time with the AR and issues with obtaining parts for repair, Mr L's car was returned to the dealership garage where the decision to write off Mr L's car was made.

Mr L said if Wakam had reached its decision sooner, he would have been able to buy a replacement car sooner. He said he lost wages over this period and wanted Wakam to reimburse him.

In March 2023 our Investigator recommended Mr L's complaint should be upheld in part. Although his policy didn't provide cover for loss of earnings, she found that Wakam had caused delays in reaching its decision to write off Mr L's car. And that these delays had directly attributed to Mr L's loss of earnings. While she thought not all the delays were unavoidable, she recommended Wakam reimburse Mr L from 17 February 2022 to 17 March 2022. She found that Wakam was in a position to settle Mr L's claim by 17 February 2022. And this would have been a reasonable length of time from the date of the incident - taking into account the time to have his car assessed by an engineer and reach a decision.

The Investigator recommended Wakam pay Mr L £200 compensation for the inconvenience caused and pay interest on the loss of earnings at a rate of 8% simple interest a year to the date of reimbursement.

Mr L didn't agree. He says Wakam should have reached a decision within a week of the incident. If it had, Mr L would have been in a position to buy a replacement car within two weeks. So he wants Wakam to reimburse him for nine weeks loss of earnings.

Wakam didn't agree. It says the policy doesn't provide cover for loss of earnings.

So the case has been passed to me to decide.

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 L's policy with Wakam says in the event of a claim it will do the following:

"What is the most Wakam will pay?

Wakam will, at their sole discretion either:

- pay the cost of repairs by an approved repairer; or*
- pay you a sum equal to the market value of the vehicle where it is damaged beyond economic repair (in which case the lost or damaged vehicle will become Wakam's property); or*
- replace the vehicle with a vehicle of the same market value"*

I don't think Wakam's initial decision to arrange for an AR to collect and assess Mr L's car for repairs was unreasonable - as the policy explains this is what it will do when a claim is made for repairs. However, from the claim notes provided, there was a delay in the AR moving Mr L's car until Thursday 4 February 2022. So by this date, it had been almost two weeks since the incident had occurred.

There were further delays as the AR had difficulty obtaining parts. This isn't something in the control of the AR. Unfortunately it isn't an unusual problem in the current market.

However, from its notes the AR thought the car may be a total loss as early as 28 January 2022. However, the decision was made to order a number of parts to carry out repairs. On 17 February 2022 the AR confirmed it was still waiting for a lot of parts on order before it could begin repairs.

The situation was unchanged by 28 February 2022 and Wakam agreed for Mr L's car to be returned to the dealership garage where it was declared a total loss.

So I think it's clear that while Wakam isn't responsible for all of the delays, I think it contributed to them. It's clear that Mr L regularly chased Wakam for updates on the repairs and how important it was for him to be able to continue working. I think that Wakam could and should have reached its decision to write off Mr L's car sooner than it did.

For the inconvenience Wakam caused Mr L, I think it should pay him £200 compensation.

Mr L provided us with evidence of his earnings for the period 8 November 2021 to 24 January 2022 which we passed to Wakam. Wakam doesn't agree it should cover any of Mr L's loss of earnings as a result of the delay it caused as this is excluded from cover under the policy.

Mr L's policy with Wakam doesn't provide cover for loss of earnings. The policy says:

"Wakam will not pay any claims relating to loss or damage resulting from:

13. Any other loss or damage that is not specifically insured under this section of the policy."

And under General Exclusions, it says:

"6. General exclusions

1. These general exclusions apply to all sections of this policy and all uses of the vehicle(s), regardless of the type of cover provided. They describe the things

which are not covered in any situation and apply as well as the exclusions shown in each individual section. It is therefore extremely important that you read them in full.

2. The policy does not cover any claims:

24. For any loss or damage which is otherwise not specifically covered under the policy, including, but not limited to, any indirect or consequential loss”

We look at what a policy says, but we also consider what is fair and reasonable overall.

I don't think Wakam is responsible for Mr L's loss of earnings for nine weeks. I think it's initial actions to arrange for repairs to be carried out by an AR was reasonable and in line with the policy. And unfortunately there was a delay with orders of parts, which is something outside of Wakam's control. But I think it is responsible for a delay of four weeks overall in settling Mr L's claim. I therefore think Wakam should reimburse Mr L for loss of earnings from 17 February 2022 to 17 March 2022.

I understand Mr L will be disappointed with my decision. But for the reasons I've given above, I am upholding his complaint in part.

My final decision

My final decision is that I uphold this complaint in part. I require Wakam to do the following:

- Reimburse Mr L for loss of earnings from 17 February 2022 to 17 March 2022 and pay interest at a rate of 8% simple interest a year from the 17 March 2022 to the date of reimbursement.
- Pay Mr L £200 compensation for the inconvenience it caused.

Wakam must pay the compensation within 28 days of the date on which we tell it Mr L accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 18 April 2023.

Geraldine Newbold
Ombudsman