

## The complaint

Miss E and her mother Ms J complain that Admiral Insurance (Gibraltar) Limited mishandled a claim on a motor insurance policy.

## What happened

The subject matter of the claim and the complaint is a car made by a premium brand manufacturer and first registered in 2018.

From at least 5 September 2020, Ms J had the car insured on a comprehensive policy with Admiral. Ms J was the policyholder. Miss E was a named driver.

In about March 2021, Miss E took the car to a garage franchised by the manufacturer. The garage said that the SRS plug had sustained water damage.

Miss E renewed the policy in her name in July 2021.

In November 2021, Miss E made a claim to Admiral for water damage. Admiral sent a vehicle assessor. Admiral declined to pay the claim.

Miss E complained to Admiral that it should've met her claim. By a final response dated January 2022, Admiral said it would pay Miss E £70.00 as compensation for delays in dealing with the claim. Otherwise it turned down her complaint.

Miss E brought the complaint to us in March 2022.

### *our investigator's opinion*

Our investigator didn't initially recommend that the complaint should be upheld. He thought that the circumstances Miss E experienced weren't covered under the terms of the policy. He thought that Admiral's offer of £70.00 was fair for the service issues she experienced.

Miss E provided further information and our investigator changed his view. The investigator recommended that the complaint should be upheld. He thought it very likely that the fault with Miss E's vehicle was caused by driving through a flood. He recommended that Admiral should deal with the claim "in line with the remaining policy terms".

At our request, Ms J joined in the complaint. Miss E declined to have the vehicle re-inspected.

### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Miss E and Ms J and to Admiral on 27 February 2023. I summarise my findings:

I'd thought about directing Admiral to meet Miss E's claim, as the investigator recommended.

However, I was troubled about the delay between the incident in the winter of 2020/2021 and Miss E's claim in November 2021.

I was also troubled about the lack of current information (at the end of February 2023) about the mileage, condition, diagnosis and estimated cost of repair of the car. So I wasn't minded to find it fair and reasonable to direct Admiral to meet the claim without further consideration

Subject to any further information from Miss E and Ms J or from Admiral, my provisional decision was to uphold this complaint in part. I intended to direct Admiral Insurance (Gibraltar) Limited to:

1. reconsider Miss E's claim; and
2. if and insofar as it pays her claim, add simple interest at a yearly rate of 8% from the date of her claim to the date of payment. If Admiral considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Miss E how much it's taken off. It should also give her a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Miss E has responded to the provisional decision. She says, in summary, that:

- Since raising the case with Admiral, the car has had several more problems, some which she has found out recently, due to it not being used.
- The main battery is completely drained. There has been an ongoing battery issue from November 2021 that she raised to Admiral when she initially made the claim. She had to take the car on small 10- minute drives to keep the battery from going dead as she did not drive it for 2 days. Since the car's MOT ran out, she hasn't been able to keep up with this. She got the manufacturer's roadside assistance to recharge the battery recently as she feared leaving the battery dead for so long would have a worse knock- on effect to the car. She was advised at this time that the battery is completely drained, so it will no longer take any charge. As soon as it turns off it will need to be recharged to start again. The main battery dying has now affected the auxiliary battery. She's attached a screen shot of the warning lights shown for this. A specialist said the main battery is around £250.00 whilst the auxiliary battery is around £100.00.
- Due to the car's battery continuously dying, the satnav update was not completed. This has affected the main dashboard screen so the car can no longer play music, take calls or use the satnav system. This is something only the manufacturer's computers can update. They've said the update can take anywhere from 1-5 hours, with the price ranging from £150.00-£700.00 depending on how long it takes.
- Since November 2021, due to her concerns of her and her baby's safety, the car was hardly driven. Her baby was born in mid- October. When the assessor came to inspect the car, she was holding her newborn baby and told him her concerns. She was going through postpartum depression. So it was really worrying how they could not at least get the car stripped that she continually begged for, to conclude an actual investigation but instead the assessor based his verdict on the fact that the floor mat was not wet, even though she told him the incident happened several months ago. Admiral are now interested in getting the car stripped. It was never genuinely assessed except the assessor's 5- minute assessment.
- The manufacturer's roadside assistance has data of how often the car was driven and how long it was driven for. This can show that the car was not genuinely being used. It would only be taken out for short drives to keep the battery charged. This has

cost her financially as she has had to continuously top up petrol since November 2021.

- She's recently had a loss in the family where she's had to find the financial means to travel back and forth to mourn with her family. If she wasn't paying for her car note or insurance, the impact of this might not have been so bad. But she's had to continue to pay £250.00 insurance since the accident until July 2022 where it was reduced to £150.00 that she still pays, as well as the £314.00 car note that she's still paying every month. This has been a huge financial burden for a whole year and a half. She's still had to continue with day-to-day life, that's cost her financially for transport because she was never given a courtesy car.

Admiral hasn't responded to the provisional 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.

I've seen that the car was first registered in November 2018. So I find it likely that for the three years to November 2021, the car was under warranty from the manufacturer and didn't need an MOT certificate. From what Miss E has said, the manufacturer also provided roadside assistance.

In early November 2022, Miss E sent us an email from which I draw the following order of events:

- There was an incident when it was raining so heavy that it created large puddles on the road that were unavoidable, that she couldn't even see because of how hard it was raining.
- After driving through the flood, she or Ms J contacted Admiral with a general question about flood damage. Ms J also looked at Admiral's website and found information about flood damage. She concluded that the policy wouldn't cover damage from driving through a flood.
- She took the car to a franchised garage who (without saying what was wrong with the car) gave a huge verbal estimate of the repair cost.
- She took the car to a garage who said that water damage tends to have a high repair cost.
- She took the car to another garage who stripped the car, drained and recharged the battery, dried the engine out in the sun and said the car was operating fine.
- She or Ms J took the car to a different franchised garage who stripped the car for free under the warranty and gave a breakdown of the damage.
- In November 2021, another car splashed the car. After not driving it for a few days, the battery was completely dead. So she or Ms J called for roadside assistance who charged the battery. But more warning lights appeared.
- She made a claim to Admiral, saying that the car had been splashed by another car.
- After going back and forth with the manufacturer, she told Admiral that it was actually an ongoing issue from when she had driven through a flood. Admiral said it covered flood damage.
- Admiral sent an assessor. She told him she had driven through a flood months before. He told Admiral that rain couldn't create the damage.

I understand that "SRS" is an abbreviation of "Supplement Restraint System" which relates

to the monitoring of seatbelts and airbags.

I've seen a "visual health check" dated 23 March 2021. It includes a recorded mileage of about 16,000 miles. It also includes the following:

*"water damage to SRS plug, requires harness £4569 inc VAT"*

I've also seen an email dated October 2022 in which the garage confirms that (following an earlier opinion from another franchised garage) it had given a second opinion. It said that – in March 2021 – it had found "*heavy water ingress*" under the carpets in the front of the car. It found it likely that the vehicle had been driven through a flood, and water had gone over the bonnet into the air vents.

I find it likely that the car had suffered water damage over the winter of 2020/2021, as Miss E or Ms J had taken the car to three other garages before the second franchised garage stripped the car and reported on 23 March 2021.

Miss E made her claim to Admiral in November 2021.

The vehicle assessor inspected the car on 2 December 2021. The recorded mileage was 18,976. He took photographs of warning lights including one relating to the "restraint system" with an icon that looks like an airbag. He noted Miss E's statement that the warning light had first come on shortly after an incident in rain on a motorway some months previously, and a franchised garage had quoted about £4,000.00.

I've seen an online vehicle check that says that on 11 December 2021, the car failed an MOT test because of an inoperative airbag and a warning light relating to stability control. It had a recorded mileage of about 19,100. The car passed an MOT later that day. So I find it likely that a garage found at least a temporary solution that day.

From a call on 23 December 2021, I find that Miss E told Admiral that she had driven through a flood. The next day, Admiral wrote a letter to Miss E, saying that its assessor would review a diagnostic and health report.

From a call on 10 January 2022, I find that the assessor told Admiral that the issue dated from March 2021.

The assessor did an update report dated 12 January 2022. He said he had seen the visual health check and the MOT information. He had contacted the second franchised dealer but had been unable to establish where the SRS plug was located in the vehicle. He couldn't see any correlation between heavy rainfall and the fault.

I note that the assessor didn't address the point that the health check said that the vehicle needed a new harness and that the cost was over £4,000.00.

The franchised garage said that the SRS plug was in the centre console. The assessor's email to Admiral dated 2 February 2022 referred to the damage to the SRS plug and said the following:

*"The only way a component in this area could suffer water damage would be if flood water entered the vehicle via the doors etc..."*

Miss E's Admiral policy was due to expire in July 2022.

The MOT expired on 10 December 2022. There's no record that the car has passed or failed

another MOT test.

I find it more likely than not that in the winter of 2020/2021, Miss E drove through standing water on a motorway. As it was a motorway, I don't find it likely that she could've stopped or avoided the water.

I have no reason to find that she was reckless in driving through the water. So – in line with our usual approach to such cases – I wouldn't find it fair and reasonable for Admiral to decline the claim on the grounds that Miss E had been careless in driving through the water.

I've weighed up what Miss E, the franchised dealer and the assessor have each said about the car. I find that the incident on the motorway caused the damage to the car noted in the March 2021 health check. So I don't consider that Admiral treated Miss E fairly by declining her claim on the grounds that there was no insured event.

#### Response to the provisional decision

I'm sorry to hear that Miss E has had further problems with the car, which she hasn't been able to use but which has continued to cost her money.

However, Miss E hasn't offered any further explanation for the delay between the incident in the winter of 2020/2021 and her claim in November 2021. From what she's said, the car's recorded mileage is still not much over 19,000. She's mentioned the cost of new batteries and a satnav update.

However, a franchised garage had said in March 2021 that the car needed a new harness at a cost of over £4,000.00. And Miss E hasn't provided an updated diagnosis or cost estimate from a garage.

#### **Putting things right**

So I don't find it fair and reasonable to direct Admiral to meet the claim without further consideration. Rather, I find it fair and reasonable to direct Admiral to reconsider Miss E's claim. To be clear, that may include a consideration by Admiral of the delay in making the claim and any effect on the repairs that are necessary. Also, it will include a consideration by Admiral of whether the car is beyond economic repair and so a total loss.

I will direct Admiral to pay interest at our usual rate insofar as it pays the claim.

#### **My final decision**

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Admiral Insurance (Gibraltar) Limited to:

1. reconsider Miss E's claim; and
2. if and insofar as it pays her claim, add simple interest at a yearly rate of 8% from the date of her claim to the date of payment. If Admiral considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Miss E how much it's taken off. It should also give her a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E and Ms J to accept or reject my decision before 26 April 2023.

Christopher Gilbert

**Ombudsman**

