

The complaint

C, a limited company, complains about how Markerstudy Insurance Company Limited handled a claim on its commercial motor insurance policy. C is represented in this matter by Mr B, one of its directors. He wants compensation for his hire costs and trouble and upset.

What happened

C's specialist vehicle was damaged in an incident. Three weeks after the incident, Mr B made a claim to Markerstudy. It deemed the vehicle to be repairable and Mr B decided to have the repairs made by his nominated repairer rather than by Markerstudy's approved repairer. The repairs weren't completed until a year after the incident due to the unavailability of a part. Mr B was without the vehicle during this time.

Mr B thought Markerstudy should have declared his vehicle to be a total loss or sold its salvage to progress the claim. He wants it to compensate him for this delay. Markerstudy said it had caused 20 days delay at the start of the claim. It paid C for 14 days hire and £150 compensation for its inconvenience. But Mr B remained unhappy.

Our Investigator recommended that the complaint should be upheld in part. He thought that as Mr B had chosen to use his own repairer, then Markerstudy wasn't responsible for all the delays. He thought it couldn't have done more to source the needed part. But he thought it should pay C £100 further for loss of use as it had admitted that it had delayed the claim by 20 days but only offered compensation for 14 days.

Markerstudy replied that it didn't think further compensation was warranted. It said it had also waived any difference in labour charges due to Mr B not using its approved repairer.

Mr B replied that Markerstudy should have asked its salvage agent to make an offer for his vehicle. He thought Markerstudy hadn't been proactive in progressing the repairs. He said he had been told that the matter had been referred to senior management when it hadn't.

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 can understand that Mr B felt frustrated that he had to wait a year for his vehicle to be repaired. I can see that the problem with the repairs was due to the lack of availability of a necessary part. The vehicle's manufacturer was in administration. And a suitable replacement couldn't be located. Eventually, the repairers modified another part to complete the repairs.

Mr B was unhappy that Markerstudy had offered him cash in lieu of repairs when it seemed the part would be unavailable. He thought Markerstudy should have declared his vehicle a write off or arranged for its salvage agent to buy it for an enhanced amount. He was unhappy that Markerstudy wasn't proactive in seeking an alternative part and simply waited for one to arrive. He thought senior managers should have been involved. And he was unhappy that there was a further delay in releasing his vehicle after the repairs were completed.

Our approach in cases like this is to consider whether the insurer's acted in line with the terms and conditions of the policy and fairly and reasonably.

Markerstudy said it wasn't responsible for the later delays in the claim because Mr B hadn't used its approved repairers and because it wasn't responsible for the manufacturer's delays.

I can see that Markerstudy warned Mr B of this when it first asked for his repairer's estimate:

"As the repair to your vehicle will not be carried out by one of our approved repairers, a courtesy vehicle cannot be provided by us and we are unable to guarantee the quality of work that is carried out by your repairer or the length of time the repair takes."

I think this is a common condition in motor insurance policies, and I don't find it unusual or unreasonable. And I think it was sufficiently brought to Mr B's attention for him to decide how to proceed with his claim.

Mr B was unhappy that Markerstudy offered him cash in lieu of repairs. But I can see that it's entitled by the policy's terms and conditions to pay cash instead of repairing the vehicle. In any case, Mr B rejected its offer as he wanted his vehicle repaired. So I can't say that this caused Mr B any loss.

Mr B was unhappy that Markerstudy wouldn't sell his vehicle to its salvage agent in a "bridge the gap" arrangement. I can see that Markerstudy declined to salvage the vehicle as the repair costs compared to the vehicle's value was below its threshold for salvage. And I think this is in keeping with what we would expect.

Markerstudy said its contract with its salvage agent didn't allow for "bridge the gap" offers. And it's not our role to tell a business what policies or procedures it should adopt. So I can't say that Markerstudy did anything wrong in declining to do this.

Mr B thought Markerstudy hadn't been proactive in pursuing the repairs. But I can see from its file that Markerstudy very regularly and frequently tried to get updates on the repairs from Mr B's garage. It was told that the part was available. The manufacturer sent the wrong part three times and then it finally modified the part to fit Mr B's vehicle.

I can understand Mr B's frustration, but I can't hold Markerstudy responsible for the manufacturer's delays or for his repairer's lack of updates. I'm satisfied that Markerstudy reasonably tried to track the repairs. And I think it was for the repairer, not Markerstudy, to seek alternatives if it wasn't able to obtain the needed part.

After the repairs had been completed, there was a delay in paying the repairer and so releasing the vehicle. But I'm satisfied that this delay was due to the repairer's error in its invoice to Markerstudy that delayed payment. So I can't hold Markerstudy responsible for this.

Mr B thought he had been misled when he was told that his claim had been brought to the attention of Markerstudy's senior managers. But I can see from Markerstudy's file notes that its senior managers were aware of the claim issue, and this was confirmed to Mr B's broker. So I don't have any evidence to show that Mr B was misled.

Markerstudy accepted that it had caused an initial avoidable delay in the claim for 20 days. And it reimbursed Mr B's hire charges for 14 days. But I think Markerstudy should make good C's losses for the full 20 days. Mr B didn't hire an alternative vehicle initially, so I think Markerstudy should reasonably pay C for the loss of use of the vehicle.

Our Investigator recommended that Markerstudy should pay C £100 for this. And I think that's fair and reasonable as it takes into account the specialist nature of the vehicle.

Markerstudy also paid C £150 compensation for its inconvenience as Mr B had to chase it for updates early in the claim. I think that's fair and reasonable as its in keeping with our published guidance. Mr B also wanted compensation for his stress and upset. But the

policyholder is a business and so whilst it can be inconvenienced, it can't be caused distress. So I'm satisfied that no further compensation should be paid.

I can see in the policy booklet that when a consumer chooses to use a non-approved repairer, as Mr B did, Markerstudy is only liable for costs at the labour rates charged by its approved repairers. But Markerstudy waived this on this occasion as a gesture of goodwill. I think that was fair and reasonable.

Putting things right

I require Markerstudy Insurance Company Limited to pay C £100 further compensation for its loss of use of its vehicle for seven days.

My final decision

For the reasons given above, my final decision is that I uphold this complaint in part. I require Markerstudy Insurance Company Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 30 June 2023.

Phillip Berechree
Ombudsman