

## **The complaint**

Mr I complains AWP P&C SA unfairly declined his motor warranty claim.

## **What happened**

AWP declined a claim made against Mr I's motor warranty. It said he hadn't shown his vehicle had met his policy's service conditions. He complained but AWP didn't change its position. It said it considered his policy invalid so would be cancelling his policy. It offered to refund the premiums Mr I had paid.

Mr I wasn't satisfied so came to this service. Our investigator found Mr I's vehicle had been serviced outside its manufacturer's network. He felt as that didn't meet the terms of the policy, AWP's decision to decline the claim was fair and reasonable. So he didn't recommend it do anything differently. As Mr I didn't accept that outcome the complaint was passed to me for a final decision.

I issued a provisional decision. As its reasoning forms part of this final decision I've copied it in below. In it I explain why I intended to find it unreasonable for AWP to decline Mr I's claim based on the servicing condition. I set out why I intended to instead require it to consider his claim against the remaining terms of his policy. I also explained why I planned to require AWP to pay Mr I £100 compensation. Finally I invited both to provide anything they would like me to consider before issuing this final decision.

### ***what I've provisionally 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 I's policy says its only valid if his vehicle is serviced by an authorised manufacturer's retailer in line with the manufacturer's specifications and service schedule. It says as Mr I hasn't shown this, his policy is invalid and his claim is declined.*

*However, an insurer can only decline a claim for failure to comply with a condition if that failure directly led to the breakdown. This is set out in ICOBS. Section 8.1.2(b) states a rejection of claim for breach of a condition or warranty is unreasonable unless the circumstances of the claim are connected to the breach.*

*It's for AWP to show the breakdown is connected to the breach. So far it hasn't done so. It's simply said Mr I hasn't shown the service condition has been met. That*

*means its decision that the policy is invalid and to decline the claim is unreasonable. So I intend to require it to take steps to put things right for Mr I.*

*AWP will need to consider the claim against the remaining terms of Mr I's policy (ie it can't decline it because the servicing condition hasn't been met). If a claim is*

*payable, then it can deduct any refunded premiums from what it pays to settle the claim.*

*Mr I should understand that I don't intend to require AWP to pay his claim. I don't know enough about the claim to have an opinion on that. I can only currently go as far as to say it was unfair declined it based on the servicing condition. I'm not currently able to say if it should be paid when considered against the remaining terms of the policy. The claim, as far as I'm aware, hasn't been fully considered.*

*It isn't known if Mr I's claim would have been paid, if not for AWP's unfair decline based on the servicing condition. So I don't know if he has suffered any further financial loss or disadvantage. So I don't intend to require AWP to pay him anything to cover any financial loss – or for him being without his vehicle.*

*I do intend to require AWP to pay Mr I compensation to make up the unnecessary distress and inconvenience its unreasonable decision caused him. I can see he's had to spend a fair bit of time dealing with the issue – becoming quite frustrated when doing so. £100 will be a fair amount to recognise the impact on him for this.*

### **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.

Neither Mr I nor AWP responded to my provisional decision. So I don't have a reason to change my position from that set out above. That means my final decision is that AWP's invalidation of the policy and decline of the claim, based on the servicing condition, is unreasonable. Instead it will need to consider the claim against the remaining terms of Mr I's policy (ie it can't decline it because the servicing condition hasn't been met). If a claim is payable, then it can deduct any refunded premiums from what it pays to settle the claim.

Finally AWP needs to pay Mr I £100 compensation to make up the unnecessary distress and inconvenience its unreasonable decision caused him.

### **My final decision**

For the reasons given above, AWP will need to pay Mr I £100 compensation and consider his claim against the remaining terms of his policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 5 September 2023.

Daniel Martin  
**Ombudsman**