

The complaint

Mr C complains that Markerstudy Insurance Company Limited (Markerstudy) unfairly declined to deal with a non-fault claim due to a breach of a mileage endorsement, under his motor insurance policy.

What happened

Mr C says he was involved in a car accident where a third-party driver was at fault. He says Markerstudy declined to handle his claim as he'd exceeded the policy endorsement limit for 2,000 miles. Mr C says he allows other people to drive his car under their own insurance policies. He says he hasn't exceeded the mileage limit. He says Markerstudy's policy terms aren't clear that the mileage limit relates to the vehicle as opposed to him as an individual.

Markerstudy says the mileage endorsement is clear. This means the policy is 'inoperative' if the insured vehicle is driven in excess of the mileage limit, in the current period of insurance. It comments on Mr C's view that he's allowed to drive other cars under his policy, and so this is also true for those driving his car. Markerstudy says 'driving other car cover' is normally used for emergencies only. The business also highlights the declaration Mr C signed. It says this is clear that it's the vehicle that mustn't cover more than 2,000 miles.

Mr C didn't think Markerstudy had treated him fairly and referred the matter to our service. Our investigator didn't uphold his complaint. He says the declaration Mr C signed and the policy endorsement were clear that his vehicle was limited to 2,000 miles in the policy year.

Mr C didn't agree and asked for an ombudsman to consider his complaint.

It has been passed to me to consider.

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'm not upholding Mr C's complaint. I'm sorry to disappoint him but I will explain why I think my decision is fair.

I can see that when Mr C took out his policy, he signed a declaration relating to the number of miles his vehicle could cover during the policy year. The declaration states:

"MILEAGE DECLARATION – LIMITED MILEAGE POLICY

The policy cover required incorporates an understanding of limited mileage. Whether at inception, renewal or a new vehicle substitution/addition please complete the declaration below and return this to [broker] immediately by email or post."

And:

"MILEAGE DECLARATION

I confirm that the present milometer reading of my vehicle registration mark [registration] is: [mileage] and it is warranted that the mileage of this vehicle will not exceed the limited mileage displayed and endorsed on your current schedule in any one period of insurance."

The declaration was signed and dated by Mr C. There is no dispute over this point.

The mileage endorsement set out in Mr C's policy schedule says:

"003 - Limited Mileage 2000

The annual mileage in the current period of insurance is restricted to the amount of miles shown next to this endorsement on your schedule. Your policy cover is inoperative (except as required under the Road Traffic Act) and of no effect if the insured vehicle is driven in excess of the annual mileage displayed on your schedule in the current period of insurance. You should contact Lancaster Insurance Services Ltd if you think you will travel more miles than you originally agreed."

In August 2022, when Mr C's car was received at Markerstudy's salvage yard – the recorded mileage was 4,225 miles greater than that recorded in November 2021 when the policy was inception. This is 2,225 miles over the limit specified in the endorsement.

I acknowledge Mr C's comments that his policy allows him to drive other vehicles. He says the terms don't say he needs to check the owner's insurance policy to see if there are restrictions in place. He says this is because he would be insured under his policy not the owner's policy. Mr C says the same would apply vice-versa if someone was to drive his car.

I understand Mr C's argument. But the declaration he signed, and the policy endorsement clearly state it's the vehicle that mustn't exceed 2,000 miles within the policy year. If the mileage covered by the vehicle in this period is to exceed the stated mileage, the terms are clear that Mr C should contact his broker to update his policy. So, although I'm sorry Mr C's car was damaged in an accident, I don't think Markerstudy has treated him unfairly when declining to deal with his claim.

I've thought about Mr C's concerns that his premium payments continued to be collected after Markerstudy declined to deal with his claim. In its submissions to our service the business says this is because the policy was still in force. It declined to cover Mr C's losses as a result of the exceeded mileage endorsement. But it says the policy still provided cover for third party liabilities. Markerstudy says Mr C could also have contacted his broker to increase his mileage allowance. His policy would then cover him for any damages/loss to his vehicle. It says it wouldn't cancel a policy as a result of a claim being correctly declined.

Having considered this point, I don't think Markerstudy treated Mr C unfairly. His policy was still in force requiring his monthly payments to continue.

In summary I don't think Markerstudy behaved unreasonably when rely on its policy terms and declining to deal with Mr C's claim for the reasons it gave. I don't think it did anything wrong with respect to the continuing monthly premiums. So, I can't fairly ask it to do anymore.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 August 2023.

Mike Waldron
Ombudsman