

## The complaint

Mr I is complaining about the way AWP P&C SA handled a claim he made on his motor warranty policy.

## What happened

In January 2023 Mr I damaged a tyre on his car when he hit a pothole. He contacted AWP to seek assistance through his motor warranty policy which also included roadside assistance. AWP arranged for the car to be recovered to a local manufacturing dealership and it provided him with a hire car. Mr I later contacted AWP to say that the dealership were charging too much for the tyre and asked that the car be recovered to his home, but AWP didn't agree to do so. At the same time AWP terminated the hire car provision.

Mr I says he contacted AWP to say he had agreed to have the dealership replace the tyre and asked for the hire car to be reinstated. He says he was told that he could either have the hire car to arrange collection of the vehicle or he could have his car returned to him after it was repaired. He said he had to show AWP that the policy covered *both* the hire car and for his car to be returned to him.

Finally, Mr I says the car incurred a scratch while in AWP's possession which he wanted it to pay to repair.

AWP didn't uphold Mr I's complaint so he referred his complaint to this Service.

Our investigator didn't think AWP had handled the recovery claim unreasonably. But he said he couldn't say for certain whether the scratch had been caused by AWP's agent, or was pre-existing. So he asked whether AWP would be willing to pay 50% of the cost of repairing the scratch – which Mr I had said would be around £530. AWP maintained that the damage was pre-existing and it said that there was a video previously which showed this, but unfortunately it wasn't available anymore. But it said it would be willing to pay 50% of the cost, subject to Mr I providing a suitable VAT repair invoice.

Mr I didn't agree with the investigator's opinion and, in summary, raised the following points:

- He maintained that it was unfair that AWP said it would only provide a hire car or pay to return the car to him. He doesn't think it was fair that he had to show the policy covered the cost of returning the car to him.
- He said AWP never contacted him about reinstating the hire car.
- He maintained AWP's agent damaged his car. He said the recovery driver completed a pre-collection report setting out there was damage, but Mr I said he wasn't present for this and it was the morning after the incident. He also highlighted the recovery driver signed the document pretended to be Mr I.
- He maintained that he was never contacted by AWP to arrange a replacement hire vehicle. He says he was told it was for the dealership to provide this, but he thought that was unfair because the dealership was an hour's drive away.

As Mr I didn't agree with the investigator, the complaint's 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.

I should first set out that I acknowledge I've summarised Mr I's complaint in a lot less detail than he has presented it. Mr I has raised a number of reasons about why he's unhappy with the way AWP has handled this matter. I've not commented on each and every point he's raised. Instead I've focussed on what I consider to be the key points I need to think about. I don't mean any discourtesy about this, but it simply reflects the informal nature of this Service. I assure Mr I, however, that I have read and considered everything he's provided.

I think there are three core issues for me to decide here:

1. AWP's refusal to transfer Mr I's car to his home address before the repairs were carried out;
2. AWP withdrew the hire car and didn't provide him with a replacement; and
3. Mr I's assertion that AWP's agent caused further damage to his vehicle.

I shall consider each point separately.

### *Handling of roadside recovery*

Following the incident, I understand Mr I's car was recovered to a nearby car park. AWP arranged for a recovery agent to attend to see if the tyre could be repaired, but it couldn't. The car wasn't transported to a dealership at that time, which I assume is due to the fact the incident happened late at night. AWP arranged for a taxi to transport Mr I home. It then arranged to transport his car to a nearby manufacturing dealership the following morning. This was in line with AWP's responsibilities under the terms of the contract and I'm satisfied it acted fairly in this regard.

Mr I is unhappy that AWP wouldn't redeliver the vehicle to another garage, due to the dealership's quoted cost of repair. But the terms of the policy didn't cover this and that's not unreasonable. AWP was required to arrange to transport the car to a dealership to get the repairs carried out. It did this and it's not unreasonable that the policy didn't cover transport to another garage.

I note Mr I subsequently asked to have the car transported to his home address. I haven't seen anything to show AWP said it wouldn't do this, but it said it would consider it. However, while it was doing so, it seems Mr I advised the dealership he wanted it to carry out the works. Ultimately, I haven't seen anything to show that AWP handled this aspect of the claim unfairly.

Mr I has queried why the car wasn't taken to his local dealership at the start, but I haven't seen anything to show that he asked for this when he reported the incident. AWP arranged to take the car to the nearest dealership, which is in line with what it was required to do under the terms of the insurance policy.

### *Hire car*

The terms of the contract specify that AWP will provide a hire car for up to two days while Mr I's car is being repaired. They also set out that it is the repairing garage's responsibility to source and supply the hire car. Mr I was provided with a hire car. But I can see that the hire car was removed when Mr I said he was arranging for the car to be repaired elsewhere. In doing this, he was essentially ending his contract with the dealership, so I can't say it's

unreasonable that it ended the hire car contract. So I don't think AWP acted unreasonably here.

Mr I says he was never given an option to have the hire car reinstated, but I disagree. AWP has given us a copy of the call recording showing that it left a voicemail on Mr I's phone asking him to call back to arrange a new hire car, but it says Mr I didn't call back. And I also haven't seen anything to show he did. So I can't say AWP didn't look to replace the hire car.

Mr I has also said that he was told he could either have a hire car or the car redelivered to him. I can see the dealership called to query this with AWP at the time and AWP advised the dealership that Mr I could take the hire car to the dealership to collect the vehicle, or he could have his car redelivered to him. But it seems AWP told the dealership that redelivery would take longer. I don't think this was an unreasonable thing to say and AWP didn't say he could have a hire car or delivery. I can't know for certain what the dealership told Mr I, but I haven't seen anything to show that AWP said he couldn't have a hire car if he chose redelivery. And, as I said, it did contact Mr I to look to reinstate the hire car. So I don't think I've seen enough to show that the AWP treated Mr I unfairly in the provision of a hire car.

#### *Additional damage*

AWP has now agreed to pay 50% of Mr I's repair estimate of £530. I've now thought about whether this is a fair offer or not.

I should first set out that it's ultimately for Mr I show that the damage was caused by AWP's agent – i.e. it's not for AWP to show it wasn't. But I've thought about what I think is most likely given all the evidence available.

AWP has provided photos of the car from the car park the following morning and this clearly shows that the scratch in question was present *before* the car was picked up by the recovery agent. So for me to say that AWP is liable for the full cost of repair I have to be satisfied that the damage occurred in the hours between Mr I hitting the pothole and the vehicle being collected the following morning.

Mr I has said the car was parked close to a wall in the car park and he thinks this must be how the scratch occurred. He also provided a photograph of the car which he says was taken two weeks before the incident, which he says shows the scratch wasn't there then.

Both parties have provided evidence which they say show the other party has caused the damage. But I haven't been given anything definitive to show the damage was or wasn't pre-existing. I also cannot ignore that there is similar pre-existing damage on the vehicle – i.e. similar scratches in neighbouring areas on the car.

Ultimately, I don't think Mr I has given me enough to show that the damage was caused by one of AWP's agents. So I can't reasonably require AWP to pay the repair cost in full. That said, I do accept it *might* have been caused by AWP's agent. So, for this reason, I don't think it's unfair that AWP has agreed to pay 50% of the repair cost – subject to Mr I providing a VAT repair invoice showing the scratch being repaired.

I acknowledge Mr I's comment that the recovery agent signed the pre-inspection report on his behalf. I agree with him that this was unreasonable. The agent should have recorded that Mr I wasn't present. I don't think there was any sinister reason for this and the report is supported by photographs. However, I can understand Mr I's unhappiness surrounding this. But I don't think he's lost out by that as no one disputes the content of the report wasn't accurate.

**My final decision**

For the reasons I've set out above, I think AWP P&C SA's offer to pay 50% of the amount it will cost Mr I to repair the scratch is fair. Mr I will need to provide a VAT invoice showing he paid to carry out this work. I don't award anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 20 February 2024.

Guy Mitchell

**Ombudsman**