

## **The complaint**

Mr H complains that Motors Insurance Company Limited (MICL) unfairly declined his claim on his mechanical breakdown insurance policy.

## **What happened**

Mr H's car was in the garage for an MOT and he was advised the timing chain needed replacing. So he claimed on his policy with MICL.

MICL reviewed the claim and declined it. It said Mr H's car was overdue its service and because of this his claim wasn't covered. Mr H didn't think this was fair and complained. He said the car's computer notified him when it needed a service and it wasn't showing as needing one.

MICL reviewed the complaint and didn't uphold it. It said Mr H's car required a service every two years or 21,000 miles, and that his car had exceeded the mileage limit by around 4,000 miles. Mr H didn't think this was fair and referred his complaint here. He provided a screen shot of the service indicator for his car saying it didn't need a service for around another 6,000 miles.

Our investigator reviewed the complaint and recommended it be upheld. He found that the owner's manual for the car didn't specify a time or mileage requirement for it to be serviced, but instead notified Mr H depending on how the car was used. He also found Mr H had bought the car around a year earlier and it had been serviced just before he bought it. Furthermore, our investigator also didn't think MICL had shown that even if the car was overdue its service, that it was material to the loss. He therefore recommended MICL reconsider the claim in line with the remaining terms and conditions and pay Mr H £150 for distress and inconvenience.

MICL didn't agree. It said the online record for Mr H's car didn't show it had been serviced and thought the car being overdue the service was material to the loss.

As MICL didn't agree the complaint has come 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.

Mr H's policy covers him for the sudden and unexpected failure of a covered part. It doesn't appear to be in dispute that Mr H's car has suffered an insured event, so I've not considered that further here. However MICL has declined the claim on the basis Mr H's car is overdue its service by around 4,000 miles. It's referred to the following terms in doing so:

*"When You have Your Vehicle serviced, You are allowed 1,000 miles or one month either side of the specified service interval, in the event of a claim if the fault is deemed to have been as a result of lack of servicing*

*or maintenance this Warranty and any associated insurances will not apply.”*

MICL has declined Mr H's claim as it said he's driven more miles since the last service than he should have. It's said this is because Mr H should service his car every 21,000 miles or 24 months. To evidence this MICL has referred to the owner's manual, however the manual it's referred to says:

*“Traditionally, a service would be due after a vehicle has reached a certain mileage or elapsed time. The flexible service on your vehicle takes into account individual driving styles and conditions to determine when and what type of service is due.*

*The vehicle is fitted with a service interval indicator in the instrument panel. When a service is due, and when the ignition is switched on, the relevant service message and estimated distance or time to the next service is displayed. On completion of a service, the instrument panel countdown feature is reset.”*

So, while I can see Mr H appears to have driven more miles than MICL has said he should have between services, I'm not persuaded he's gone over the service requirement for his car. I say this because the service indicator on his car is still showing that he has a few thousand miles before it needs a service. In any event, even if I was persuaded, he had exceeded the mileage, I'm not persuaded MICL has shown it's fair to decline his claim.

I say this because MICL needs to show that Mr H breaching a condition of the policy is material to the loss. In other words that Mr H not servicing the car in line with the manufacturing requirements has contributed to the timing chain failing. I can see MICL has said it's possible that exceeding the mileage on a service could result in the timing chain failing prematurely. And while I understand that is what “could” happen, I'm not persuaded MICL has done enough to persuade me that's what's happened here, as it's not shown that the Mr H's car having low oil and/or exceeding the service requirements is what has caused the timing chain on his car to fail. I'm therefore not persuaded MICL has acted fairly and reasonably in declining Mr H's claim. To correct this MICL should reconsider the claim in line with the remaining terms and conditions of the policy.

I can also see by MICL declining Mr H's claim, it's caused him unnecessary distress and inconvenience. This is because he's had to arrange for the car to be repaired and also to repair it without knowing if it's covered by his policy. To compensate him for this MICL should pay Mr H £150 for the distress and inconvenience.

### **My final decision**

For the reasons explained above, my final decision is that I uphold this complaint. I require Motors Insurance Company Limited to:

1. Reconsider Mr H's claim in line with the remaining terms and conditions
2. Pay Mr H £150 for distress and inconvenience

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 17 November 2023.

Alex Newman

**Ombudsman**