

The complaint

Mr W complains that Admiral Insurance (Gibraltar) Limited (Admiral) provided misinformation and paid too little when settling a total loss claim under his commercial motor insurance policy.

What happened

In March 2023 Mr W's vehicle was severely damaged having rolled over onto its side. He says some of the damage was caused during the recovery of the vehicle. Mr W believes this is what resulted in the total loss decision.

When discussing his claim, Mr W says Admiral told him it would settle the finance agreement first and then pay any remaining amount direct to him. Mr W understood the market value of the vehicle was around £28,000. After the finance was settled he was expecting a payment of around £16,500. But this wasn't received. Mr W says that communication from Admiral was poor.

In its final complaint response Admiral says Mr W's vehicle was owned by a lease company. In the event of a total loss its policy terms say it will pay either the market value or the remaining lease payments, whichever is the lower. It paid the remaining lease payments in this case, which was the lower amount. Admiral says some additional damage is unavoidable to recover a vehicle that has rolled over. It didn't think the additional damage resulted in the total loss decision. The vehicle was already thought to be beyond economical repair as a result of the initial accident.

Admiral acknowledged its communication wasn't up to standard due to backlogs. It couldn't locate a call recording where Mr W was told he'd be paid £16,500. But it accepted what Mr W said. In response to these points, it offered £100 compensation.

Mr W didn't think he'd been treated fairly and referred the matter to our service. Our investigator upheld his complaint in part. He says Admiral had settled the claim in line with its policy terms. As Mr W has a lease agreement he didn't own the vehicle and so wasn't entitled to a payment. However, he says Admiral should pay Mr W a proportion of the deposit he'd paid when the lease agreement was set up. In not doing so Mr W had suffered a loss, which the policy should indemnify.

Mr W agreed to this outcome. Admiral didn't. It says the deposit isn't an insured loss and remains an agreement between Mr W and his finance provider.

As an agreement couldn't be reached the complaint has 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.

Having done so I'm upholding Mr W's complaint in part. Let me explain.

I've read the claim records Admiral supplied. Mr W is noted on several occasions to say he thought he had a personal contract purchase (PCP) arrangement with his finance provider. Having read his finance agreement, his vehicle was provided under a lease arrangement. This means the finance provider owned the vehicle. A PCP arrangement works differently and may explain why Mr W thought he was due the balance between the lease settlement and the vehicle's market value. But this isn't the case.

Mr W's policy terms and conditions say:

"If your vehicle is on lease or contract hire, we will pay the lease or contract hire company either the market value of the vehicle, or the amount required to settle the agreement, whichever is less."

Mr W's car was considered a total loss. I note his comments that damage was caused during the recovery. But I think Admiral's response is reasonable that some further denting was unavoidable as the vehicle had turned over. I haven't seen evidence that persuades me the recovery caused the vehicle to be considered a total loss.

Admiral paid Mr W's finance provider to settle the lease. This is what I'd expect to happen in these circumstances.

I have no reason to dispute Mr W's testimony that he was told he'd receive the difference between the lease settlement and the vehicle's market value. This was around £16,500. I can understand his disappointment. It was likely due to inaccurate information from Admiral's agent(s) that Mr W expectations were poorly handled. But I'm satisfied he hasn't suffered an actual financial loss. In these circumstances I think it's fair that Admiral offered Mr W £100 compensation.

I've thought about the deposit Mr W provided when he entered into his lease agreement. I don't agree that Admiral needs to pay the market value in settling his claim. But he has lost out on the unused part of his deposit, due to the lease agreement ending early. Mr W's policy with Admiral is intended to indemnify him in the event of the total loss of his vehicle. Admiral should therefore acknowledge the lost part of Mr W's deposit payment in its settlement.

Our service has a longstanding approach, which we think is fair in these circumstances. This means Admiral must pay a proportion of the deposit back to Mr W. He paid £3,000 to the finance company. We take the first month's payment from this, which leaves £2,715.90. The total loss occurred in March 2023 and the lease was due to end in August. So, six months remained of a 48-month lease. Six months remaining / 48 month-term = 0.125. Multiply this by the adjusted deposit and this give an amount due to Mr W of £339.48. I think this should reasonably have been paid when the lease was settled. So, Admiral should add 8% simple interest from that date until this amount is paid.

My final decision

My final decision is that I uphold this complaint in part. Admiral Insurance (Gibraltar) Limited should:

- pay Mr W £339.48 plus 8% simple interest from the date the claim was settled until this amount is paid.

*If Admiral considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr W how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 7 February 2024.

Mike Waldron
Ombudsman