

## **The complaint**

Mr D complains that Accredited Insurance (Europe) Ltd (Accredited) unfairly declined his claim for damage caused when driving through a flood, under his motor insurance policy.

## **What happened**

In March 2023 Mr D says he drove through some flood water, which caused damage to his car's electrics. He says it was pitch black and he couldn't see the water. He contacted Accredited to make a claim, which it declined. He was told he'd acted negligently, which resulted in the damage to his vehicle.

In its final response to Mr D's complaint Accredited says it was clear from the photos and video footage he provided, that the flood water was well-lit and clearly visible. It says this would've been seen by any driver approaching at slow speed. Accredited says Mr D made a conscious decision to place his car at a "heightened" risk without cause for doing so. It says Mr D must take reasonable steps to protect his car from damage as per his policy terms. Because he didn't, Accredited says it must decline his claim.

Mr D didn't think this was fair and referred the matter to our service. Our investigator upheld his complaint. She didn't think Mr D had deliberately caused damage to his car. So, the claim couldn't be declined based on this policy condition. She says Mr D had been playing football and his teammates travelling on the same stretch of road hadn't encountered difficulties. She didn't think there was reason to conclude Mr D had failed to take reasonable steps to protect his car from damage.

Our investigator says Accredited should reconsider Mr D's claim without relying on the policy exclusions it had to decline it. She says it should also pay him £150 compensation for the distress and inconvenience it had caused him.

Accredited didn't agree to this outcome. It says for the flood water to enter the engine bay at the air in-take, Mr D must've been driving at high speed. It says he knew there was a body of water in the road and carelessly drove through at speed causing the water to rise up to the height of the engine bay. Because it disagreed Accredited asked for an ombudsman to consider Mr D's complaint.

It has been passed to me to decide.

I issued a provisional decision in December 2023 explaining that I was intending to not uphold Mr D's complaint. Here's what I said:

### *provisional findings*

*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 my intention is to not uphold Mr D's complaint. I'm sorry to disappoint him but I'll explain why I think my decision is fair.*

*I've listened to the call when Mr D first reported his claim to Accredited. As well as a further call when its agent called back to obtain more details. During these calls Mr D explains that the road he was driving on was very dark and he couldn't see that it was flooded. He says that it wasn't until the car was in the water that he became aware the road was flooded. Having driven slowly through the remaining water, Mr D says his steering became heavy and a number of warning lights appeared on his dashboard.*

*After he'd parked his car Mr D says he measured the depth of the flood water, which was around six inches deep. He refers to photos he took of the flooded road and a video he took, which he sent to Accredited. When asked how fast he was driving Mr D said, "probably less than ten miles per hour".*

*I've looked carefully at a photo of the flooded road. I understand Mr D took this after he'd driven through the flood water. I can see that there are two posts on one side of the road. Both have lights on top, which illuminate this section of the road. The flood water appears to be further illuminated in the photo, which I understand is from Mr D's headlights or the headlights of another car.*

*I acknowledge what Mr D says about it being very dark when he was driving. But the photo he provided shows two post lights illuminating the section of the road where it's flooded. Combined with the light from the car headlights I think the flooded section of road is clearly visible.*

*In the photo I note the flood water doesn't reach the height of the top of the kerb. I also note Mr D's comments that he measured the depth of the water with a tape measure, and it was around six inches deep.*

*The engineer's report Accredited obtained describes damage to the car's power assisted steering control unit, in addition to some other issues. The cost of repairs is estimated at just over £850.*

*I've thought about Accredited's comments that Mr D must have driven his car carelessly, and at speed, for the water to have reached the point it did, and to cause the damage it did. Having seen the water level shown in the photo of the flooded road, I think Accredited's view is persuasive. Had Mr D been driving at a slow speed I think it's much less likely that damage would've been caused to his car. I also think the photo shows the flooded section of road is clearly visible, which means Mr D should reasonably have been alerted to the hazard.*

*Accredited's policy terms say:*

*"You or any insured driver must take all reasonable steps to:  
protect your car from loss or damage (this will include changing the locks to your car if the keys have been stolen)"*

*Had Mr D driven more slowly, as I think he reasonably should, through the flooded section of road, I don't think his car would've been damaged. His policy terms are clear that he must take reasonable steps to protect his car from damage. Based on this evidence I don't think Mr D did take reasonable steps here. So, I don't think Accredited acted unfairly when declining his claim for the reasons it gave.*

*Mr D raised concerns with the time taken by Accredited to provide its complaint response and for an error it made with the date of the incident. I'm sorry he's dissatisfied, but complaint handling isn't considered a regulated activity, which means I'm not able to*

*consider these points.*

I said I was intending to not uphold this complaint. I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Accredited didn't respond with any further comments or information for me to consider.

Mr D responded with further photos of the road where the incident occurred. In addition, he's provided a satellite image of the road junction with the location of the flood circled, technical specifications and measurements for his car, and photos showing measurements being taken of his vehicles ground clearance,

Mr D says my provisional decision is flawed and unjust. He says he isn't sure where Accredited arrived at a repair cost of £850 as the assessor that inspected his car said it would cost around £2,500 to replace the steering rack and reset the electronics. Mr D says Accredited appeared willing to accept the claim until after the assessor had inspected. He thinks that as the repair cost was higher than it originally anticipated – this is why the business declined his claim.

Mr D refers to the road on which the incident occurred being only just wide enough for two cars to pass, with a number of bends. He says it would be difficult for any car to gather any speed and the water would rise up no matter how fast he was travelling. Mr D refers to the photos he took that show his car has around five inches of ground clearance. He says whether he was travelling at 5mph or 50mph water would still have entered into the car's electronics.

Mr D says he's supplied a video taken by a passenger in his car at a similar time to when the incident occurred. He says this supports his view that it's difficult to gain any speed on this road. Mr D says when it's windy, raining and pitch black it was difficult to see the pool of water as his headlights only pan around the bend when it is too late. He says the illuminated bollards provide minimal lighting and not enough for him to see the body of water.

Mr D says this evidence demonstrates on the balance of probability that he was driving at a low speed, and it would've been difficult for him to have seen the flood water.

### **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 persuaded by Mr D's further evidence that a change to my findings is warranted.

I've looked at the photos provided and revisited the images we already have on file. I acknowledge what Mr D says about the width of the road and that it has a number of bends leading from the roundabout to the leisure facility. But as discussed in my provisional decision there are a number of bollards with lights on top that illuminate the road. The photos Mr D has provided further support this point showing a string of bollards positioned along the length of the road. The original photos he provided also show how the water is clearly visible under headlight beams.

Mr D's policy terms say that he must take all reasonable steps to prevent his car from loss or damage. I think the flood water would reasonably have been observable to him. Based on this Mr D made a conscious decision to drive through the flooded section of road. I don't

think the road width or layout prevented him driving at a speed that could result in the damage reported. And I think Accredited's comments are reasonable that for water to enter the engine bay at the air-intake, the car must've been travelling at a speed that was inappropriate given the road was flooded.

I've watched the video Mr D provided. This shows him driving down the road where the incident occurred. He points out where the flooded section of road was. During the video Mr D says he was driving at 15mph and then slows to 12mph.

I've carefully considered this evidence. It shows the road was illuminated by a combination of headlights and bollard lights. This supports Accredited's view that the flood water was visible, and Mr D likely drove through it at a speed which was material to the damage being caused.

I acknowledge Mr D's dispute around the estimated cost of repairs. But this isn't relevant here. Accredited declined Mr D's claim. I don't think this was unreasonable, so the cost of repairs doesn't factor into my decision.

I'm sorry that Mr D's car was damaged and that he has to pay for the repairs. But I don't think Accredited treated him unfairly when relying on its policy terms and declining his claim for the reasons it gave. So, I can't reasonably 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 D to accept or reject my decision before 16 February 2024.

Mike Waldron  
**Ombudsman**