

The complaint

Ms K is unhappy with AWP P&C SA's (AWP) handling of a claim made under her roadside assistance insurance policy.

What happened

Ms K has a roadside assistance insurance policy, underwritten by AWP. After breaking down, Ms K contacted AWP for assistance. AWP accepts they didn't handle the claim in line with Ms K's reasonable expectations and offered £200 compensation.

As Ms K was unhappy with the level of compensation, and because she hadn't received the compensation offered either, she approached this service.

One of our investigators let AWP know that Ms K said she thought £300 compensation, rather than the £200 offered, was a fairer amount for the impact of AWP's handling of her car breakdown claim. AWP agreed to increase compensation to £300.

However, whilst Ms K said she was happy for the additional compensation to resolve her complaint, she also reiterated that she hadn't received the original compensation. There was then communication between Ms K, AWP and our investigator acting as the go-between. AWP said the payment had been made but didn't provide evidence demonstrating that, but Ms K said it hadn't been received, and provided bank statements to show that there was no payment.

Ultimately AWP didn't provide any evidence to support the payment being made and Ms K asked for a final decision from an ombudsman.

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.

Firstly, I must say it is disappointing that AWP hasn't demonstrated or provided evidence to support that they made the compensation payment despite their continued insistence that it has been paid and the continued correspondence with our investigator about this. It's also disappointing that they've more recently not responded any further to the investigator.

AWP asked for bank statements from Ms K, via our investigator, to show that the payment hadn't been received, and these were provided. Whilst saying it would be referred to their finance team, AWP hasn't responded further and has still failed to show when it was sent as alleged. As a result, despite Ms K being happy to resolve the complaint for a total of £300 compensation (which AWP agreed with), as she's not received what was offered previously or the additional amount, Ms K has asked for a final decision from an ombudsman.

The original compensation was offered in March 2023 and Ms K accepted it on the same day, but Ms K says she's not received this and shown bank statements to us and AWP to demonstrate this. Despite this, AWP hasn't demonstrated the payment was made, beyond showing a request to their finance team from May 2023 – some two months after it was accepted. And AWP has also said they think it was paid in October 2023, but hasn't shown this, or given any explanation why this is a significant time after it was offered and requested internally in May 2023.

Either way though, Ms K has provided bank statements showing it was neither received in May or October 2023, and AWP hasn't demonstrated if or when they made the payment.

I agree that a further £100, as put to AWP by our investigator (which they agreed with), taking the total compensation including what was already offered to £300 is a fair and reasonable amount for what happened following the car breakdown. But I can also see why Ms K is frustrated having not received this (in the absence of evidence from AWP to demonstrate it has made the payments).

The difficulty we have here is that we don't have access to AWP's accounts, so we are unable to check if and when payments were made. So, we rely on AWP's co-operation in providing information in support of their position, which they've not done here despite many requests. So, I'll be directing AWP to pay Ms K a total of £300 compensation as already offered (which includes the £100 additional amount agreed when the case was with us), unless it can demonstrate it's been sent and received by Ms K.

But given the length of time this has been ongoing, I'll also be directing AWP to add 8% simple interest to the £200 from 30 April 2023 which is one month after Ms K accepted it (allowing a reasonable time for AWP to have made the payment), until date of payment (unless it can be shown by AWP that it has already been paid and received). This is to take into account Ms K has been deprived of this amount for this period. And 8% simple interest will also need to be added to the additional £100 from 20 November 2023 which is one month after our investigator let AWP know Ms K accepted the additional £100 (allowing a reasonable time for it to have been paid), until date of settlement, again, unless AWP can show it has already been paid and received.

Ms K has also asked for details about what prevention actions and process changes AWP has taken as a business internally regarding what happened to ensure this type of situation doesn't occur again, including any action taken against the employee who was involved in the claim. However, this would be relating to AWP's wider operating procedures, and employee training. We aren't the regulator of AWP, so this isn't something I can comment on further.

My final decision

It's my final decision that I uphold this complaint and direct AWP P&C SA to:

- Pay the £300 compensation already offered, unless AWP can show it has been sent and received by Ms K
- Add 8% simple interest to £200 of the compensation from 30 April 2023 to date of payment (unless AWP can show the compensation was sent and received)
- Add 8% simple interest to £100 of the compensation from 20 November 2023 to date of payment (unless AWP can show the compensation was sent and received)

*If AWP P&C SA considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Ms K how much it's taken off. It should also give Ms K a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 13 February 2024.

Callum Milne
Ombudsman