

The complaint

Mr C, who is also a director of a limited company “D”, which is a joint complainant, has complained about warranty provider Motors Insurance Company Limited (MICL). MICL cancelled a warranty, arranged by Mr C, for D’s vehicle “L”.

This complaint will require me, in this decision document, to refer to the nature of D’s business and detail from its website. Further, that MICL chooses not to offer warranties for cars which are used for certain purposes relevant to D’s business. Our decisions are published, so I have to ensure details within my decision protect anonymity. For that reason, I will not be disclosing the nature of D’s business or the specifics of the circumstances under which MICL chooses not to offer warranties. But the parties can be assured that I am fully aware of the specifics of all these details.

What happened

D owns a car, L. Mr C is the main user of L. Mr C arranged a warranty for L, provided by MICL, with cover starting in September 2022. In December 2022 MICL accepted and paid a claim for L. In June 2023 Mr C had cause to make another claim for L. MICL noted that the warranty was set up under D’s address, and what the nature of D’s business was. It became concerned that L was being used to provide services as part of that business. That it was being used for purposes which MICL had specifically chosen to exclude from its warranty provision.

MICL asked Mr C for further details. Its claim handler then confirmed it was happy L wasn’t used for that purpose. However, a referral was also made by the claim handler to MICL’s underwriting team. It was then decided that the warranty for L would be cancelled. MICL wrote to Mr C stating the details on D’s website showed L was being used for a purpose it had chosen not to offer cover for. Mr C said that was not the case. He said photos of L on the website were for illustrative purposes only and didn’t show it actually being used to provide the services offered by D’s business. MICL wasn’t prepared to accept that. Mr C, on behalf of himself and D, complained to the Financial Ombudsman Service.

In September 2023, another representative of D advised that there had been significant financial loss and inconvenience suffered by D due to the warranty cancellation. D said L had sat for a while without being fixed, and the garage had said that whilst it could try fixing L for a likely cost of at least £18,000, there might be further issues. D said it had then become at risk of losing significant business because L is used to commute to sites around the country where D’s employees (not using L, D says) then provide D’s services to its customers. To prevent that one of D’s officers had, therefore, taken a loan to purchase a new vehicle, with other costs also having to be paid to get the vehicle on the road (tax etc). With the financial outlay for the new vehicle itself having caused a lot of distress and inconvenience to D’s officer.

Our Investigator wasn’t persuaded that detail on D’s website showed that L was most likely used to provide the services of D’s business. In reply MICL said it wasn’t just the website that had concerned it. It had noted high mileage on the vehicle also, and a further review, by

its underwriters, of the motor insurance documents for L, had persuaded it that L was being used to provide the services of D's business. Following some further correspondence, MICL asked for an Ombudsman's decision. The complaint was referred to me.

I felt the complaint should be upheld – that MICL had not shown that L was being used for providing the services of D's business, a purpose it was not prepared to offer cover for. I felt it should reinstate the cover, consider the claim and pay £150 compensation.

AIE said it accepted my decision. Mr C and D did not reply.

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 said provisionally:

"It's somewhat of a concern for me that MICL has put its case for cancelling the warranty forward in such a piecemeal way. This service expects an insurer to be upfront with a policyholder about the reasons for its actions. I think MICL was less than clear on this occasion with Mr C/D about why it had cancelled the warranty – relying as it did in its final response letter only on 'details on the website' showing L was used for providing the services of D's business. In any event, I find I'm not actually persuaded by any of the arguments MICL has raised.

In total MICL has raised three arguments for L being used to provide the services of D's business. MICL's said the website detail shows this, that the car's high mileage does as well, and finally that the motor insurance supports that this is likely the case.

There are photos of L on D's website. Even some photos which appear to show L being used to at least be demonstrating some of the services D provides. But I must bear in mind that the website confirms that all images are for illustrative purposes only – that they do not depict actual footage of D's services being provided. The website does also refer to L being a vehicle used by Mr C – under a title "Vehicles used by [Mr C]". But I note that is within a section giving personal background details about Mr C. In a different part of the website there is reference to service users being able to use "one of our vehicles". But I'm not persuaded that vague reference to "one of our vehicles" sufficiently suggests that L is available for use. I haven't, for example, seen any booking form or details that suggest prospective customers can specifically select to use L for services provided by D.

I note MICL has only referenced 'high mileage' as being a flag for it. It hasn't set out to explain or support why the mileage L has covered, in its view, most likely suggests L is used to provide the services of D's business. I emphasise that because MICL's issue isn't with L being used to commute to sites where those services are provided. And when D was asked about L's mileage, D explained that Mr C drives all around the country in L to sites where he/D provides D's services. But, once at site, L is not used to provide those services to D's customers. I think that's a reasonable and plausible explanation for the high mileage.

I accept that the motor insurance for L, at face value would have been a concern for MICL. The insurance is in D's name but names Mr C as the driver of L. Under "Cover and Use" it refers to 'use' being in line with the service provided by D's business. This detail on insurance usually sets out what the vehicle can be used for. And, as I said, I can see why, on the face of it, that would have concerned MICL as most people would only arrange cover that suite what their needs are. On the face of it, looking at just that piece of the policy

documents alone, it would appear that D needed cover for L so it could be used to provide the services D offered once at a customer's site.

However, further assessment of the policy shows that first impressions can be misleading. The policy shows that there are certain endorsements in place regarding 'use'. Particularly that for a vehicle to be covered for use, for the type of service D provides once at a site, Mr C would have to be present and the person driving the car would have to be named on the certificate. A review of the certificate shows that Mr C is the only person named. So whilst the motor insurance allows an option for L to be used in line with the type of service D provides, it seems D has not taken the extra steps necessary to allow it to be used for that purpose – adding names on to the certificate. There's also a requirement, if L is to be used for those services, for the car to be adapted. Mr C has shown L is not adapted. I'm not convinced then that the permission for use in this case means it is most likely that L is being used in that way.

MICL might argue that policyholders don't always strictly adhere to the terms of their policy. But I've seen nothing to make me think Mr C or D would court that type of risk. It would certainly take more than a few photos on a website, a query over high mileage and the fact of a policy permitting certain use, where each of those has a plausible alternative reason, to persuade me that Mr C and D were using L out of line with clear stipulations of the motor insurance policy.

So MICL has not persuaded me that L was most likely being used to provide the services offered by D's business. As such I'm minded to find its cancellation was unfair and unreasonable. Which means I need to think about what it must do now to put things right.

I think MICL should look to reinstate the warranty and progress the claim for L. If additional work is required for L now because it has been stood for a time, MICL should cover the cost of that work too.

I can't reasonably require MICL to reimburse D's officer for the sums spent to replace L. Only D, and Mr C because he arranged the warranty for L, are eligible complainants to this service. So whilst I appreciate that D's officer had a significant outlay which caused him distress and inconvenience, I can't make any award in that respect against MICL.

But whilst D's officer said he took a personal loan to buy the car, it's not clear if other costs for getting the replacement on the road, such as tax and insurance administration charges for changing a vehicle, were paid by him or D. If D incurred costs, then I think MICL should reimburse D, plus interest. I have thought about the decision made to replace L, rather than repair it and/or to perhaps hire a car. But I recognise that D needed a vehicle, that hiring would have been costly, with an attached uncertainty about whether any sums could be recouped later. That the prospects for repair also seemed uncertain. At least with buying a vehicle, D would be back on the road and could, if it wanted, sell that later. So D now has the benefit of the replacement car. But it shouldn't be left with any additional outlay for having got that car on the road.

I do accept that whilst the officer was looking for a replacement car and getting all of that arranged, he likely couldn't do the other work he usually does for D. And I appreciate that without L either being repaired or replaced, D might have lost business. So I think D, via its officer, did need to act to mitigate the unfair situation MICL had left it in. As such, I am satisfied that D likely had some inconvenience, with the day to day running of the business likely having been impacted somewhat by time being taken to make these other arrangements. I think £150 is fairly and reasonably due.

I'm not going to award separate or additional compensation for Mr C. I think he acted for D in arranging the warranty, albeit it ended up with his name being logged as the warranty holder, rather than D. I haven't seen that MICL's failure materially impacted his work for D, such that D was caused further inconvenience (in addition to that I've found above)."

As AIE has accepted my provisional decision, and Mr C/D have not responded to it, I've no need to change my view or make further comment. Suffice to confirm that my provisional findings are now those of this, my final decision.

Putting things right

I require MICL to:

- Reinstatement the warranty for L and progress the claim.
- If repairs are undertaken and more work is needed now because L has been stood for several months unused, MICL will need to undertake that as well.
- Pay £150 compensation for inconvenience.

My final decision

I uphold this complaint. I require Motors Insurance Company Limited to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask D and Mr C to accept or reject my decision before 15 March 2024.

Fiona Robinson
Ombudsman