

The complaint

Mr S complains about the quality of the repairs carried out to his car when it was damaged in an accident. He says that the poor repairs caused further damage to his car. He's also unhappy about how long it took to arrange the further repairs that were required and that the matter hasn't been resolved to his satisfaction.

What happened

Mr S has insurance for his car with Hastings Insurance Services Limited trading as Hastings Direct. His car was damaged in an accident in May 2022. Mr S reported the accident online and based on the information he provided Hastings determined that that he wasn't at fault for the accident, so they referred his claim to an accident management company for a credit hire and credit service repair, to avoid claiming on his policy.

Mr S has told us that he wasn't aware of this referral, it wasn't discussed with him, and he wasn't given the option to claim on his own policy.

Mr S says that when the car was returned to him there was an issue with the alignment of the driver's side window, which allowed rainwater to get into the car. This resulted in the car's interior becoming damp and smelly. And despite reporting the problem to Hastings when his car was returned to him, it has still to be resolved to his satisfaction.

Mr S raised a complaint with Hastings. They issued their final response letter on 21 March 2023. In their letter they make no reference to the repairs being dealt with via an accident management company.

Hastings said that Mr S had reported a problem with the repairs on 20 December 2022. They accepted that they'd been a delay in authorising the further repairs until 14 February 2023. They also accepted that Mr S hadn't been kept updated. They apologised for the delay and inconvenience this had caused and offered him £100 compensation.

They don't accept that the matter remains unresolved. They've told us the window alignment issue was repaired on 8 February 2023, and although Mr S had complained that there was an unpleasant smell in the car, and it had lost value, he'd not provided any evidence of this and he hadn't raised it with the repairers.

Mr S has told us that due to the car door not being properly aligned the car wasn't locking or opening correctly and the windows didn't close as they should. The issue with the door was eventually resolved. But the window continues to go up and down by itself, which then activates the car's alarm. And he's got nowhere with getting the issue resolved.

Unhappy with the response received from Hastings Mr S complained to our service. Before providing his opinion our investigator asked Mr S to confirm the current condition of his car, whether he'd been advised that Hastings were going to refer his case to an accident management company, and whether he'd needed a replacement car while his was being repaired.

He also said that by using an accident management company Mr S avoided paying his policy excess and claiming under his policy. He asked Mr S whether, if this was explained to him, it was a benefit he'd have been interested in.

In response Mr S told us that so far as he was aware the claim was dealt with under his policy. He was initially told his excess had been waived, but later that it had to be paid on completion of the repairs, although he the end he wasn't required to pay it.

He also told our investigator that the company he thought were the repairers appointed by Hastings wouldn't accept that his car wasn't driveable and wouldn't collect it. He had to raise this with Hastings who arranged for an engineer to inspect the car. The engineer told Mr S a safety cut off had been activated which stopped the car starting, but he managed to get it started for him.

Mr S also said he didn't get a hire car until 6 June 2022, even though Hastings knew from the outset that his car wasn't driveable. And he'd purchased an add on benefit of a hire car when he took out his policy.

Our investigator considered the case and said that Mr S's complaint was about Hastings referring his claim to an accident management company when he wasn't aware of this. He was unhappy with the level of service he received. This included not being provided with a replacement car for the whole period his car was being repaired, the quality of repairs to his car, and that there were ongoing faults after further repairs had been carried out.

Our investigator said that the accident management company and the company who provided his hire car aren't regulated and we can't consider the impact of their actions. But he said that as the crux of Mr S's complaint was the referral to the accident management company, he'd consider whether this was in line with the required regulatory standards.

He said that when a consumer has been involved in a non-fault accident their insurer should provide information that's clear, fair and not misleading to enable them to make an informed decision on how they wish to proceed. This should include discussing the pros and cons of whether to claim under their policy over using credit hire/repair.

The insurers should make it clear that entering into a credit hire/repair agreement means stepping outside a regulated contract of insurance, so they're likely to lose the option to complain to us if things go wrong. And they should act in the best interests of their customer, checking if credit hire/repair is suitable for them, before discussing this with them.

If an insurer doesn't explain a consumer's options properly he said we'd try to put the consumer in the position they'd have been in, had things been explained better.

Our investigator said that in this case he couldn't see that Mr S was made aware of the referral to an accident management company or given the option to claim under his own policy. So he didn't think Hastings had acted fairly by referring the case, as Mr S wasn't given the choice he should have been.

He spoke to Mr S about what he would have done at the time if the referral had been discussed with him. Mr S said he'd purchased the option of a guaranteed hire car, so our investigator thought he'd have chosen to claim against his policy.

Our investigator then considered the impact of the poor referral. He said Mr S was without a car for a period of his claim and had he claimed under his policy he'd have been able to complain about this issue to Hastings. And the situation was the same in respect of the repairs to his car. Mr S raised a number of ongoing issues regarding his car with Hastings. A

rectification was agreed and arranged in March 2023 but didn't go ahead as planned. Since then further repairs haven't been discussed or arranged. And as the repairs were carried out under an unregulated credit repair agreement Mr S has no recourse to complain.

So our investigator didn't think Mr S's claim had been fairly referred and upheld his complaint. To put things right he said Hastings should arrange an independent inspection of Mr S's car to assess the issues with the alarm and window. And arrange any necessary repairs. And they should pay £250 compensation, inclusive of the £100 they'd offered, for the distress and inconvenience caused.

Hastings responded to our investigator's opinion saying that Mr S had complained about the quality of the repairs to his car, not the referral to the accident management company. And they asked our investigator to identify where he'd raised this complaint. In response to this our investigator pointed out to Hastings that in his email to them of 4 July 2023, he said he'd be looking at their referral, whether this was done correctly, and if not the impact on Mr S.

Our investigator asked Hastings to provide a copy of the call Mr S made to report the accident. They replied saying Mr S had reported his claim online and the accident management company had only been instructed in respect of his repairs, so there was no credit hire facility provided.

Our investigator contacted Mr S to check if he was aware of the referral to the accident management company and the to check the current condition of his car. Mr S replied saying that he was aware of the involvement of another company, but he thought they were engineers and he believed the claim had been dealt with under his policy.

Mr S also confirmed that he'd been without a car for a month as his wouldn't start after the accident. It was only after he chased Hastings that an engineer was sent out to do an inspection. And the engineer was able to start the car for him.

Hastings maintained that Mr S had never complained about the referral to the accident management company, so they didn't accept our investigator's opinion.

The case then came to me for a decision.

I issued my provisional decision on 12 February 2024 and in it I said: -

Hastings have said that we can't look at what is essentially a complaint about the referral of Mr S's claim to an accident management company because he never complained about the referral.

Mr S is unhappy that the repairs to his car haven't been completed to his satisfaction, and that because his car has had a faulty window for many months, his car is now damp and smells musty. That's what his complaint is about. I accept that he's never complained about the referral, but that's because he wasn't aware of it. And while it's clear Hastings did refer his claim, they've not provided any evidence that Mr S was made aware of this.

Mr S complained to Hastings was about the quality of the repairs to his car, and the delay in arranging these. When Hastings replied to his complaint there was nothing in their response to suggest they'd referred the repairs on to a third party. In fact they said that mistakes sometimes happen with repairs and they like to give their garages a chance to rectify any issue. And they said the garage arranged for the window alignment in Mr S's car to be rectified.

Hastings accepted there'd been a delay of just under two months in arranging the repairs, for

which they apologised. They said this was due to their claims team being unable to reach the garage, tasks for Mr S's claims handler not being picked up and workload pressure at their engineers. So, once again no mention of a third party being responsible for the repairs.

They also apologised for the lack of communication and provision of updates, saying that their claims team were chasing the garage. But that in the period between 23 December 2022 and 17 January 2023 their claims handler's tasks to chase progress of the repairs weren't actioned.

In respect of the size of the replacement car Mr S was provided Hastings acknowledged that he's paid for Substitute Vehicle Cover, but said his policy only covered this if his car was a total loss or a write off. So still no reference to a third party being responsible for arranging the hire car.

And they upheld Mr S's complaint and offered him £100 compensation.

Based on Hastings actions and their response to Mr S's complaint I accept that he was unaware that his claim had been referred to a claims management company. Hastings had the opportunity to advise him of the referral when they responded to his complaint, but they didn't do this. At the heart of his complaint are the repairs to his car, which Hastings accepted responsibility for in their final response letter.

I think it's unfair for Hastings to say we can't look at how these were dealt with because Mr S never complained about the referral to the accident management company. But he couldn't complain about something he wasn't aware of. And I don't think I need to consider whether the referral to the accident management company was carried out in line with the required regulatory requirements.

When Mr S raised his complaint Hastings accepted responsibility for the repairs to his car, the delays, and the inconvenience he'd experienced. So it would be unfair of me to say that he needs to complain about the referral, something he wasn't aware of, before we can consider his complaint.

So I'm persuaded that Hastings should arrange for Mr S's car to be inspected to establish the cause of the ongoing issue with the window. And they should cover the cost of any further repairs that are required, including dealing with the damp and musty smell Mr S complains of, and provide him with a hire car for the duration of any repairs.

I also accept that Mr S has suffered distress and inconvenience as a result of how Hastings dealt with his claim, and I don't think the £100 they offered him is sufficient to compensate him for this. Taking everything into account I think £350 is an appropriate figure.

So my provisional decision was that I upheld Mr S's complaint.

Hastings accepted my provisional decision.

Mr S responded to my provisional decision telling us that due to the unresolved issue with the car window, the car had become increasingly damp with the carpet rotting, the door card panels had started to rot, and the interior seats, seat belts and dashboard had become mouldy. And the car alarm continued to go off randomly, while he was at work and during the night, annoying his employer and his neighbours.

Due to this he says he had no choice but to get rid of the car which prior to the accident was in good condition with only 45,000 miles on the clock. So he's been left with no vehicle and has to rely on public transport or a lift to get to work. He believes that due to the delays in

resolving the matter and the stress he's experienced, the cost of the repairs to his car and the cost of a hire car should be added to the compensation I suggested, as this would help him to recover some of the money he'd lost.

We let Hastings know that Mr S had sold the car. And let parties know that as Mr S had sold the car it wasn't going to be possible to arrange an inspection to establish what further repairs were required.

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 can appreciate Mr S's frustration with the time it's taken to get to this point, and why he decided to sell his car. But that decision means that it's not possible for Hastings to arrange an inspection of the car to establish what further repairs are required. And without an inspection I can't say what repairs Hastings needed to carry out, how long these were likely to take and the period Mr S would have needed a hire car for.

Mr S has told us he's now without a car and feels that the cost of repairs and a hire car should be added to the compensation I've said Hastings should pay. In considering the case I need to be fair to both parties and it wouldn't be fair of me to ask Hastings to estimate the likely cost of repairs, the time these would take and the cost of a hire car for this period. Because without an inspection we just don't know what was required. So I can't increase the compensation Hastings are required to pay as Mr S has asked me to.

Having said that I remain persuaded that Mr S suffered distress and inconvenience as result of how Hastings dealt with his claim, and I don't think the £100 they offered him is sufficient to compensate him for this. Taking everything into account I still think £350 is an appropriate figure.

My final decision

For the reasons set out above, and in my provisional decision, my final decision is that I uphold Mr S's complaint about Hastings insurance Services Limited trading as Hastings Direct.

And to put things right I require them to pay Mr S £350, inclusive of the £100 they previously offered him, to compensate him for the distress and inconvenience their handling of his claim has caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 3 April 2024.

Patricia O'Leary
Ombudsman