

The complaint

Mr M complains Amtrust Europe Limited unfairly charged a cancellation fee when he made a claim on his vehicle breakdown policy.

Any reference to Amtrust includes the actions of its agents.

What happened

The circumstances of this complaint are well known to both parties, so I've summarised events.

- Mr M has a breakdown policy which is underwritten by Amtrust. He called Amtrust for recovery assistance when his vehicle broke down. Amtrust arranged for an operator to recover Mr M's vehicle.
- But before the operator arrived, Mr M called to cancel his request for assistance - saying his vehicle was working again. Amtrust told Mr M a cancellation fee would be chargeable in line with its policy terms - and as explained to him in the previous call.
- Mr M thought this unfair. He said Amtrust hadn't provided a service, and that he'd offered to go back to the recovery location - having been told a cancellation fee applied - but wasn't allowed to do so.
- In its final response letter, Amtrust maintained its position that a cancellation charge was payable.
- Mr M disagreed and so, brought a complaint to this Service. An Investigator considered it but didn't uphold it. Because Mr M remained unhappy, the complaint has been passed to me for an Ombudsman's decision.

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 agree with the outcome our Investigator reached – I'll explain why.

The policy schedule says under *"Important Cover Conditions"*:

"In the event of you cancelling any assistance between informing us of your breakdown, and the point of our agent arriving on scene, or you are not present with the vehicle upon arrival, you will be liable for a call out cancellation charge of £120."

So, I'm satisfied the policy makes it clear in what circumstances a cancellation charge applies. Mr M doesn't dispute receiving the schedule – and as the condition is on the first page of this document, and in bold font to highlight it, I'm satisfied it was brought to his attention.

But Mr M says he was told - when calling to cancel assistance - that he wouldn't be charged a cancellation fee. So, I've listened to the telephone calls he had with Amtrust to hear what was said.

During the first call, Mr M tells Amtrust he's broken down and needs assistance. The agent advises him the wait time is approximately two hours. The agent explains that once assistance is booked in – if Mr M cancels or is not there when the driver arrives – he'd have to pay a cancellation fee. Mr M says "okay" to this.

Under the industry rules, firms have a duty to give consumers the information they need to allow them to make informed decisions. As Amtrust explained in this call when cancellation charges apply - and Mr M had previously been provided with this information in the policy schedule - I'm satisfied Amtrust gave Mr M the information he needed to make an informed decision about whether to go ahead with the recovery.

During the second call, Mr M informs Amtrust that he'd like to cancel his recovery. The agent informs Mr M that as the recovery operator is on route to him, a cancellation charge would be incurred. Mr M asks why a charge would be incurred when, to him, a service hadn't been provided. The agent explains that Mr M had agreed to the breakdown terms at the end of the previous call. In response, Mr M says: *"I'll go back to the spot, and you can pick me up there."*

It's not clear which party ends the call – but it happens mid-way through the agent trying to explain why Mr M returning to the recovery location wouldn't change the cancellation charge applying – as he'd left the recovery location and cancelled assistance.

So, I'm satisfied the advisor made it clear a cancellation charge would be incurred and his explanation as to why that was – namely, that Mr M had cancelled assistance whilst the recovery operator was on route to him – was in line with the policy terms. Neither agent said a cancellation fee wouldn't apply, so I'm not satisfied Mr M was given misinformation which would lead him to believe it wouldn't be payable.

Mr M says the cancellation charge is also unfair because he wasn't given the option of returning to the recovery location, but it's clear Mr M had already left the location given he said: *"I'll go back to the spot, and you can pick me up there."* The agent had tried to explain to Mr M this wouldn't change things as he'd cancelled assistance and had left the location.

I appreciate Mr M has said he suffers from a health condition, and that this influenced his decision to proceed with his journey, as he didn't want to wait in the cold. I note however, this wasn't something he told Amtrust. Rather, he told Amtrust that his vehicle had *"thrown a wobbler and was now working"*, so he didn't need assistance. Even if Mr M had decided to proceed with his journey owing to his health condition, I'm not persuaded this means Amtrust has treated him unfairly by applying a cancellation charge in the circumstances.

Ultimately, Mr M asked for assistance and Amtrust acted on his request. Whilst he later decided he didn't need assistance - as he'd got his vehicle working again - Amtrust had already arranged for a recovery operator to attend, who was on route. His decision to proceed with his journey was his at his own volition. And so, in line with the policy terms and conditions, a cancellation charge was applicable.

So, I'm satisfied Amtrust's decision to charge a cancellation fee is both in line with the policy terms and is fair and reasonable in the circumstances.

My final decision

For the reasons set out above, my final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 April 2024.

Nicola Beakhust
Ombudsman