

The complaint

Ms L has complained about the service she has received from Admiral Insurance (Gibraltar) Limited in relation to her car insurance policy and a claim under it.

Any reference to Admiral includes its agents.

What happened

Ms L said originally that the underside of her car hit a bump and it stopped working and oil came out of it. She contacted Admiral for assistance. It recovered Ms L's car back to her home. It then arranged for it to go to one of its approved repairers. The repairer said it had some problems with the gearbox, which they couldn't fix. There was a delay, but Admiral eventually had the car inspected by a motor engineer. He said the problems with the gearbox weren't as a result of impact damage. In view of this, Admiral offered to pay to repair the damage due to the incident Ms L had claimed for, but not for the repairs to the gearbox. It also incorrectly advised Ms L that her car had been written off.

Ms L wasn't happy and complained to Admiral, as she wanted the gearbox fixed as part of her claim. She also asked Admiral to cancel her policy because she thought she needed to declare her car as off road because it was a total loss, which she did. She thought this meant she didn't need the policy cover anymore. It seems Ms L also cancelled her direct debit for the premium instalments. I say this because Admiral started chasing her for the outstanding premium.

Ms L then also complained about the fact the policy had not been cancelled when she asked for this to happen and that she was being asked to pay the outstanding premium. She also appears to have complained about the fact her claim had been marked as a fault claim.

Admiral issued several final responses. Two of these were issued before Ms L asked us to consider her complaint. One of these said that it was right to turn down her claim for the repairs needed to the gearbox on her car. And one acknowledged that it hadn't provided a very good service on her claim. In this final response Admiral said it would pay her £650 in compensation for distress and inconvenience.

In the final responses it issued after Ms L had asked us to consider her complaint Admiral said that according to the policy terms the full premium for the policy was due when it was cancelled because Ms L had made a claim. It also said the claim was correctly marked as a fault claim, as it was not able to recover its outlay on the claim from anyone else.

One of our investigators considered Ms L's complaint points. She said Admiral's decision not to pay for the repairs to the gearbox on Ms L's car was reasonable. However, she didn't think Ms L should be liable for the full policy premium, as she had only cancelled her policy because Admiral had led her to believe her car was a total loss.

Admiral didn't agree with the investigator's view. It said that it did not advise Ms L to declare her car as off road. It simply said she needed to let the DVLA know that possession of her car had transferred to Admiral once her claim was settled as a total loss.

Admiral also pointed out that it had issued more final response letters than the investigator had realised. And it sent her copies of three more final responses, including the one where it said it would pay Ms L compensation of £650.

Our investigator told Admiral its response hadn't altered her view on Ms L's complaint. So Admiral asked for an ombudsman's decision.

After this Ms L raised a further concern that Admiral was chasing her for the amount due under her finance agreement as a result of the outstanding premiums.

I spoke with Ms L to establish exactly what happened when her car was damaged. She explained that the underside of her car hit a bump. She carried on and drove around 50 yards further and the car then started making a noise. This concerned her, so she pulled over and saw oil gushing out underneath the car. So she called Admiral and it sent a recovery vehicle. The recovery man told her not to drive the car and took it back to her home address.

I also asked Ms L what she did with the car after Admiral refused to pay for all the repairs needed to it. She said she sold it for £2,000 in September 2023 to the mechanic who was going to do the work. This was because he wanted £4,000 to repair it and she couldn't afford to pay this amount.

I issued a provisional decision on 23 May 2024 in which I set out what I'd provisionally decided and why as follows:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Ms L's policy covers damage to her car caused by an accident, amongst other things. It also says Admiral will not pay for loss or damage caused by mechanical breakdown.

Admiral has provided very little information on the damage to Ms L's car that it is willing to pay to have repaired. All it's provided is an engineer's report which says there is no impact damage to the bottom of the front bumper, the gearbox, the engine, the crossmembers, the suspension arms or the exhaust. The engineer also said there was a considerable amount of oil or fluid present but it wasn't clear where this had come from. And he concluded that, in the absence of any evidence of impact damage, the problems with the gearbox were likely to be of a mechanical nature and not covered by Ms L's policy. There is also a note on Admiral's system which says that its approved repairer said there were problems with the gearbox and the clutch on Ms L's car and that it couldn't repair these.

As I've mentioned above, Ms L has said her car hit a bump and she heard a noise and felt she had to stop driving it. And that she saw oil gushing out of it. And I think this testimony carries a lot of weight, as it supports the argument that her car was somehow damaged as a result of hitting the bump. Especially, as Miss L has said oil was gushing out from underneath the car. And the lack of comment or information from Admiral on the damage it is willing to pay for is unhelpful. And I think the engineer's inspection was inadequate because he didn't establish where the oil under the car had come from. And I think this was crucial in determining whether the car had been damaged in the accident Ms L had reported. In my view, by reporting an accident in which her car hit a bump, Ms L did enough to show she had a valid claim under her policy for damage to her car resulting from an accident, including the damage to the gearbox and clutch, as this could have been caused when oil came out after the impact. And it was for Admiral to show that this wasn't the case and that the problem with her car was more likely due to a mechanical failure. And I don't think it's

done this. This is because it seems possible to me that the impact from the bump did cause a hole under Ms L's car and oil came out because of this. I appreciate the engineer said he didn't see any impact damage, but he may have missed this due to the amount of oil present. And if he had investigated the reason for the oil/fluid being present he may have picked up the source of the leak and realised there had been some sort of impact. This means I consider Admiral's decision to turn down Ms L's claim for the damage to the gearbox and clutch was unreasonable. And that it should have agreed to cover the cost of repairing it.

I can understand why Ms L decided to sell her car. And it seems she sold it for £5,000 less than she will now have to pay to buy one of the same make and model. This is based on the guides we use to value cars and on an average mileage, as Admiral hasn't provided a copy of its original engineer's report with a mileage on it. What I think should have happened is that Admiral should have paid for Miss L's car to be fully repaired, including the clutch and gearbox. Then Miss L would have had her car back as it was before her accident. Instead, she got £2,000 for it and will now have to pay a further £5,000 to buy a like for like replacement. As I've said, this is based on what I consider to be the current fair guide value of a like for like replacement of £7,000. But it reflects the fact that if Miss L's car had been repaired when it should have been the mileage would now be higher, based on an average yearly mileage of around 9,000 miles.

In view of this, I think as part of the fair and reasonable outcome to her complaint Admiral needs to pay Ms L £5,000 in settlement of her claim for her car. This is subject to Ms L providing proof that she sold her car for £2,000.

Turning now to the delay in Admiral reaching its decision on Ms L's claim. It is clear Admiral took far too long to assess the damage to Ms L's car. She made her claim at the beginning of June 2023 and it was the end of September 2023 before Admiral finally gave Ms L its decision on her claim. And, in this time, because it hadn't accepted the claim, Ms L was without her car or a courtesy car. And I think this warrants a significant compensation payment for the distress and inconvenience Ms L experienced as a result of Admiral's failings. Our investigator suggested £300. But she wasn't aware at this point Admiral had already paid Ms L £650 in compensation to Ms L. But bearing in mind how long Ms L was without a car, I do not consider £650 is enough. I think £850 is more appropriate. This means I think Admiral needs to pay Ms L a further £200 for the distress and inconvenience she experienced as a result of the poor handling of her claim.

Turning now to the cancellation of Ms L's policy and the amount Admiral think she owes it because of this. I should say first of all that I have considered these issues as part of Ms L's complaint because Admiral issued final responses on them some time ago and it has not objected to us doing so, even though Ms L didn't ask us to consider them when she complained to us originally.

I can see why Ms L thought it was a good idea to cancel her policy. She'd been told her car was a write off and she didn't think she'd be able to use it again. In view of this, she declared it off road and thought she didn't need insurance for it anymore because of this. I appreciate that the email Admiral sent Ms L telling her that her car was a write off, which was actually sent in error, didn't actually advise Ms L to declare her car off road and it did say she didn't need to let the DVLA know anything until her claim was settled. But this doesn't alter the fact that it was a mistake on Admiral's part which confused Ms L and led to her thinking she needed to declare her car off road. And this in turn led to her cancelling her policy.

It does say in the policy terms that the full premium is payable if the policy is cancelled and a claim has been made. And now Admiral does have to pay Ms L's claim I think it is entitled to collect the full premium. But it can deduct what Ms L owes from the £5,000 due to her for her

claim.

However, Admiral chasing Ms L for outstanding premium when it hadn't actually settled her claim was inappropriate and caused her further unnecessary distress and inconvenience. And I think Admiral should pay her a further £100 to reflect this. It should also remove any record of the amount outstanding from its records and Ms L's credit record and cancel any recovery action.

Our investigator didn't address Ms L's complaint about her claim being noted as a fault claim. But, as Admiral has issued a final response on this. And, as it seems Ms L is unhappy about it, I've decided to address it as part of this provisional decision.

I do of course appreciate Ms L doesn't think she was at fault for the accident she claimed for. And – from what she's said - it seems she wasn't. But this in itself is not the determining factor on whether the claim should be marked as fault or not. What determines this is whether in the event that Admiral makes a payment for the damage to Ms L's car it can claim this back from anyone else. For example, another driver who was responsible for the accident giving rise to the damage. And with the damage to Ms L's car Admiral will not be able to claim back what it pays out. And this means Ms L's claim does need to be recorded as a fault claim.

I should add for the sake of clarity that fault and non-fault are generic industry terms and external databases show claims as 'no claim bonus allowed' (non-fault) or 'no claim bonus disallowed' (fault). This reflects the fact that a claim where an insurer can't recover its outlay will mean the customer's no claims bonus is affected by it either directly or as result of it counting as one of their allowed claims against their protected no claims discount. In summary, I think Admiral's decision on Ms L's claim not to pay for the repairs to the gearbox and clutch on her car was unreasonable. And it should pay her £5,000 less what she owes for the remainder of the premium, subject to her providing proof she sold her car for £2,000. I also think it needs to pay Ms L a further £300 in compensation for distress and inconvenience.

I gave both parties until 6 June 2024 to provide further comments and evidence in response to my provisional decision. And I sent a follow up email to both parties explaining that in the 'My provisional decision' section I had incorrectly referred to the additional compensation Admiral needed to pay for distress and inconvenience as £100 instead of £300.

Ms L has now provided proof that she sold her car to the mechanic that was going to repair it for £2,000 and said she is grateful for our help with her complaint.

Admiral has said it has no further comments or evidence to provide and stands by its previous emails.

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.

As Ms L has now provided proof that she sold her car for £2,000 and Admiral has not provided any further comments and evidence, I see no reason to depart from what I considered to be the fair and reasonable outcome to Ms L's complaint as set out in my provisional decision. Except, I no longer need to make the payment Admiral must make in settlement of Ms L's claim subject to her providing proof she sold her car for £2,000, as she has now provided this.

Putting things right

For the reasons set out in my provisional decision and above, I've decided to uphold Ms L's complaint and make Admiral do the following:

- Pay Ms L £5,000 in settlement of her claim for her car, less whatever she owes in outstanding premium for the policy year.
- Pay Ms L a further £300 in compensation for distress and inconvenience.

Admiral must pay both these amounts within 28 days of the date on which we tell it Ms L accepts my final decision. If it pays later than this, it must also pay interest on these amounts from the deadline date for settlement to the date of payment at 8% a year simple.

My final decision

I uphold Ms L's complaint and order Admiral Insurance (Gibraltar) Limited to do what I've set out above in the 'Putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 27 June 2024.

Robert Short
Ombudsman