

## **The complaint**

Mr B and Mrs G have complained that Liverpool Victoria Insurance Company Limited (LV) have not settled a claim for accommodation costs under their motor insurance policy.

## **What happened**

Mr B and Mrs G's car broke down when travelling home to the UK from Europe. Their car began to mis-fire in a tunnel. As there was no phone signal, they were unable to call for breakdown assistance. They managed to 'stutter' on to a nearby garage. The garage diagnosed the problem – a faulty injector – but said that the repair could take up to a week. Mr B and Mrs G claimed for five nights accommodation they incurred whilst the garage was repairing their car.

LV repatriated the car but declined the claim for accommodation as Mr B and Mrs G didn't call for assistance to rescue the car – which is a term of the policy.

Our investigator recommended that the complaint be upheld. She said that had LV recovered the car, it is likely that it would have been taken to the same garage, as it was the closest and where LV arranged for the car to be returned to when problems persisted.

LV appealed. It said that Mr B could have 'limped' his car to the nearest safe place to stop and then called for support. LV said it would then have had control over the claim and being able to ascertain if the five nights' accommodation was necessary, or if the work could have been done any sooner irrespective of whether LV had taken it to the same garage or another.

As no agreement has been reached the matter has been passed to me to determine.

## **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.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So I've taken those rules into account, amongst other things – including relevant law and industry principles – to decide whether I think LV has treated Mr B and Mrs G fairly. Having done so I agree with the conclusion reached by the investigator. I'll explain why.

Firstly the policy terms, under General Conditions of service say: *"You must make all requests for our breakdown and recovery assistance immediately. We will not accept responsibility for any service or help that we have not arranged"*. So I understand why LV initially rejected the claim.

But looking at all the circumstances, and the fact that it wasn't possible to call from the tunnel, I find Mr B acted sensibly in taking the car to a nearby garage. I've seen a photograph of the tunnel where the problems started – I'm satisfied it would have been

dangerous to stop there, and just outside the tunnel there doesn't seem to be any hard shoulder.

Under Roadside assistance and local recovery the policy says:

If we cannot repair your vehicle by the end of the working day on which the breakdown occurred, we will:

- *Pay for overnight accommodation for you and up to 7 passengers, up to £60 per person per night to a maximum of £500, to cover any additional costs you may incur in excess of your planned accommodation costs. You will have to claim these costs from us on your return. We will not pay your planned accommodation costs.*

I'm not persuaded that LV was prejudiced by Mr B taking the car to the nearest garage – as it hasn't shown that it would have done something differently had Mr B called. It seems highly unlikely that the car could have been repaired at the roadside. I accept though that LV may have used a different garage – but when the car needed to be returned after the initial repair – LV did use the same garage rather than one of its choosing. I'm also not persuaded that Mr B and Mrs G stayed in the accommodation longer than was necessary.

I appreciate that LV has policy terms for a reason. But I must also consider the regulations by which LV has to abide. It must treat its customers fairly and act to deliver good outcomes for retail customers. By sticking rigidly to the terms and conditions of the policy, I don't find that LV has acted in accordance with these regulations. In all the circumstances I'm satisfied that it would be fair and reasonable to meet Mr B and Mrs G's claim in accordance with the remaining policy terms and subject to seeing evidence of the charges incurred for accommodation.

### **Putting things right**

I require LV to:

- Pay Mr B and Mrs G's accommodation charges of up to £60 a day up to the policy limit of £500.
- Add simple interest of 8% per annum to this sum from 7 November 2023, when LV had all the information to fairly consider the claim, until settlement.

### **My final decision**

I uphold this complaint. I require Liverpool Victoria Insurance Company Limited to put things right as indicated above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs G to accept or reject my decision before 18 September 2024.

Lindsey Woloski  
**Ombudsman**