

The complaint

Mr B complains about the way Red Sands Insurance Company (Europe) Limited handled a claim he made on his motor warranty.

What happened

Mr B took out a motor warranty when purchasing his car in 2022. He said around three months later the car broke down. He received roadside assistance and was told the issue was to do with the timing chain, which had in turn caused engine damage. So, Mr B made a claim on his motor warranty for the damage.

Red Sands said it would need to carry out some tests to determine whether the damage was covered by the warranty. Mr B says he asked for a hire car which he believed was covered under the policy but was told one wouldn't be provided until the damage was confirmed to be covered.

After around six weeks of his car being with the repairer, Mr B paid for the replacement engine himself and complained to Red Sands. He felt it was deliberately delaying the claim by asking for more and more tests, which were being done at his expense. He also complained that he hadn't been provided with a hire car, as he thought he was entitled to under the policy, and not having one had made him incur his own hire car costs. He also complained about the sale of the warranty. He said he'd been pressured into it without it being explained that he'd have to pay for diagnostic tests.

Red Sands didn't accept it had unfairly handled the claim. It said it had requested the evidence it needed to validate the claim, but it hadn't been provided by the garage. It said because Mr B then paid for the repair the evidence could no longer be obtained and so it wouldn't cover Mr B's costs.

Unhappy with Red Sands response, Mr B brought a complaint to the Financial Ombudsman Service. Our Investigator didn't think Red Sands had acted unfairly during the claim. She said she could only look at issues up until late December 2022, when Red Sands issued its final response to his complaint. She thought up until that point, Red Sands had promptly asked for the evidence it needed from the garage, and its requests for more information as to the cause of the damage were reasonable. She said if Mr B could provide further information from the garage as to the cause of the engine issues, Red Sands could consider it.

Mr B raised a further complaint with Red Sands for the issues that happened after December 2022 until he paid for the repairs in January 2023. Red Sands didn't agree to change its position on the claim, so a further complaint was brought to this Service. Another investigator considered those events and still didn't think, based on the information from the repairer and Red Sands, that it had handled the claim unfairly or Red Sands should reimburse M B what he paid to have the engine replaced.

Mr B asked for an Ombudsman to review the matter. It was decided for practical reasons to consider all of the issues raised by Mr B under one complaint. So I have reviewed the entire claim journey and everything both Mr B and Red Sands have provided.

Mr B has also complained that the policy was mis-sold to him. He said in the car showroom he'd declined the warranty twice, only to be pressured into it again. As Red Sands isn't the seller of the policy, I can't consider this as part of this complaint. I understand Mr B has been directed to the car dealership for that complaint.

In April 2024 I issued a provisional decision on this complaint. I've copied what I said below:

Mr B's warranty covers him for all mechanical and electrical parts in the event of mechanical breakdown. Mechanical breakdown is defined as the failure of a mechanical or electrical component 'causing a sudden stoppage of its function'.

It is for the policyholder, so in this case Mr B, to demonstrate he's suffered a loss covered by the policy. So, he needs to reasonably show his car suffered a mechanical breakdown. Considering all of the evidence I have, I'm satisfied that he did that and that the car did suffer a mechanical breakdown. The car stopped working whilst Mr B was driving it, and he was told by the roadside assistance service that there was a problem with the timing chain which had caused damage to the engine. This was also confirmed by the garage he took his car to. I haven't been provided with any evidence that Mr B was aware, or could have reasonably been aware, there was an issue with the timing chain before the breakdown of his car.

I'm satisfied the parts that stopped working can be classed as mechanical components, and so his claim should be covered unless Red Sands can fairly rely on a valid exclusion to decline it.

Red Sands hasn't sought to rely on an exclusion to decline the claim. It says the claim is declined because there was no evidence to show the engine needed to be replaced. So I've considered all of the evidence I have to determine whether this was a reasonable position to take. Having done so I'm not satisfied that it was.

Mr B says he was told by the roadside assistance patrol that the car had suffered engine damage as a result of an issue with the timing chain. The garage Mr B took his car to said the timing chain guide had broken, and was wedged at the bottom of the mechanism. It was the garage's view that the engine needed to be replaced as a result.

Red Sands asked for a video of the timing chain to be provided, which was done by the garage, showing it was slack. Red Sands also asked for compression tests to be carried out on each engine cylinder, which was also done. This showed one cylinder having less pressure than the others. The garage said this was a sign the engine was damaged and needed to be replaced.

Red Sands said that wasn't enough to support that a new engine was needed. It asked for a borescope on the damaged cylinder so it could see the damage. However, given the time that had passed and the garage's view that a new engine was needed and couldn't be repaired, Mr B paid for the works to be carried out. He said he'd been without his car over the Christmas period and was incurring expensive hire car costs and needed his car back, so Red Sands left him with little option but to pay for the repairs himself.

Having considered the above, I'm not satisfied Red Sands has been reasonable in declining Mr B's claim. It has said there was no evidence a new engine was needed, but that isn't correct. There was evidence, from Mr B's garage, that the engine needed replacing. Red Sands has also said it needed to confirm what caused the failure of the parts that required replacement. I can't see why that is the case because the policy covers mechanical breakdown of mechanical or electrical parts (except any listed in the exclusions).

All of the evidence provided to Red Sands shows a mechanical breakdown, as defined by the policy, had taken place. It might be that Red Sands was trying to confirm if the issue was wear and tear - although it's never raised that argument -but even if it was trying to establish that, Mr B's policy covers mechanical parts for wear and tear up to 100,000 miles. And I haven't seen any evidence to suggest Mr B's car mileage was in excess of that. I've seen documents from when Mr B bought the car, three months prior, which shows a mileage of 62,000 miles.

So it seems to me that Red Sands did have enough evidence, when it received the compression test results, to validate that there was damage to the engine. I say this because this test showed Red Sands that as well as the timing chain being slack, further damage had been caused to the engine. So I'm minded to decide that it is at this point that Red Sands should have agreed to cover the claim.

As Mr B has paid for the engine replacement, Red Sands will need to refund Mr B what he paid, plus 8% simple interest from the date he paid the invoice, until the date of settlement. This is because this is the loss he's suffered as a result of Red Sands not paying his claim when it reasonably should have. I'm satisfied that paying the claim was a reasonable action for Mr B to take in the circumstances, given how long his car had been with the repairer, and how much he needed his car.

Mr B has said he wasn't told he'd have to pay for any diagnostic tests. I'm not reviewing, as part of this complaint, what he was or wasn't told at the point of sale. But having read his policy terms, under the 'what is not covered' section and the 'claims conditions' section it says that Red Sands won't cover the cost of diagnosis or testing. Whilst I'm not ultimately satisfied Red Sands fairly decline the claim, I don't think it was wholly unreasonable in asking for the compression test to be carried out. And as that isn't covered under the policy, I'm not going to ask Red Sands to reimburse Mr B for it. My understanding is that Mr B didn't pay for any other diagnostic tests after this, as he had the engine replaced. But if he did, then I might consider it fair for Red Sands to reimburse this and I'll take any evidence into account that Mr B might provide in relation to that following this provisional decision.

Turning to the issue of the hire car, Mr B says by not providing one and asking for more and more tests, he incurred costs he shouldn't have. I've asked Red Sands to confirm if Mr B had hire car cover as part of the warranty, because I can't see that he did, I can only see that it would offer a contribution of £30 per day towards hire costs. Red Sands didn't provide me with a full response to this. But it did say Mr B would have been entitled to a hire car if it was satisfied the claim was covered.

As set out above, I'm minded to decide that at the point the compression test was done, Red Sands should have decided the claim was covered. Whilst Red Sands has said that it would have provided a hire car, the policy seems to provide a £30 per day contribution for seven days towards a hire car whilst repairs are carried out.

It seems reasonable to me that an engine repair might have taken a week, so I think a fair way to resolve this part of the complaint is for Red Sands to pay Mr B the full entitlement of hire contribution he could have received under the policy. I'll take into account any more comments I receive after this provisional decision, but unless either party changes my mind that would be £210. And since Mr B has shown he did have to hire a car, I'm satisfied he has incurred a loss by Red Sands not providing this contribution earlier. And so it will need to add 8% interest onto this amount from the date Mr B paid for his hire costs, until the date of settlement.

Mr B has raised other concerns about the unhelpfulness of staff he spoke to at Red Sands, delays he feels it caused and the inconvenience it caused him in not agreeing to the claim. I

asked Red Sands for its comments on how Mr B was treated by staff on phone calls he had with it. It didn't provide me with a response. So the only evidence I have on this is from Mr B, so at the moment I'm persuaded Red Sands were rude and unhelpful to Mr B. I consider this would have caused him unnecessary distress during an already stressful time.

I understand Mr B is very unhappy with the length of time Red Sands took to progress the claim. I've reviewed the limited timeline I've received from Red Sands. This suggests a video of the timing chain was requested around six days after the car had been in the garage. It isn't clear what was happening in the intervening days. On 20 December 2022 it seems a compression test was requested. It isn't clear when this was carried out or provided to Red Sands, but I can see notes stating Mr B complained about the delays in reviewing this on 17 January 2023.

I've asked Red Sands for more information on this and its comments about how long it took to review the compression test. Its response hasn't persuaded me that it progressed the claim as efficiently as it could have done. So, at the moment I do think there are failings in the way Red Sands handled this claim, and I think they caused Mr B unnecessary distress and inconvenience. He said after returning his hire car, he was having to rely on trains and buses for a time to get to work and picking up his young child from nursery was more difficult with being without a car for longer than he should have been.

It's hard to pinpoint exactly when matters should have been resolved. And I am mindful that the issue with Mr B's car took place shortly before Christmas, so things will inevitably slow slightly with public holidays. That being said, having to pay to replace a car engine at short notice – when it should have been covered by Red Sands – will have caused Mr B a degree of distress and inconvenience. I'm minded to say Red Sands should pay Mr B £200 for the unnecessary distress and inconvenience it caused him through its handling of the claim.

My provisional decision

My provisional decision is that I'm minded to uphold this complaint and require Red Sands to:

- Reimburse Mr B what he paid to have the engine repaired. It needs to add 8% simple interest per annum to that amount from the date Mr B paid it, until the date of settlement.*
- Pay Mr B £210 contribution towards hire car costs. It needs to add 8% simple interest per annum to that amount from the date Mr B paid it, until the date of settlement.*
- Pay Mr B £200 compensation for unnecessary distress and inconvenience caused.*

Response to the provisional decision

Mr B replied to say he agreed with the findings. He said the car had been serviced shortly before the breakdown and it wouldn't have been possible to predict with issue with the timing chain. Mr B's view, on the delays with the claim, was that Red Sands had delayed matters by over a week following the compression test, when it could have been done much sooner. Mr B didn't provide any further information as to more diagnostics he paid for beyond the compression test.

He also said he was concerned that other people may also have claims unfairly declined, based on reviews he's seen.

Red Sands responded to say it did have enough information to adjudicate a claim for a replacement timing chain, but not a full engine replacement. It said there was no factual evidence that the engine needed replacement, as it hadn't been stripped. It also asked this

Service to confirm what had failed within the engine to warrant Red Sands approving the engine costs.

It said in relation to the hire car, the repairer claimed nine hours for the repairs, which would be two working days, not seven.

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, neither party has submitted any further evidence which has changed my mind from the findings I made in my provisional decision. So my final decision is that I uphold this complaint.

Red Sands says it did have enough information to adjudicate a claim for a replacement timing chain. So it accepts Mr B did have a valid claim. However, I can't see that it offered to pay what it would have cost to replace a timing chain to Mr B at any point, including when he brought the complaint to this Service. I would have expected Red Sands to have done so, even when it found out Mr B had paid for the engine repairs himself. Instead, it has maintained, until now, that it acted fairly in offering no settlement to Mr B.

Red Sands has said there is no evidence that the engine needed replacing, and there is no evidence of what caused the low compression to one of the cylinders.

However, we know the engine stopped as the car broke down, so there was a mechanical breakdown as defined by the policy. Mr B has said that he was told by the garage that replacing cylinders was extremely expensive and would likely not have fixed the issue, so the only viable solution was to replace the engine. Whilst Red Sands has said it doesn't know what caused the issue to the cylinder, it cannot doubt that there was an issue with it, which resulted in lower pressure. And it hasn't persuaded me that there was a more suitable repair for this vehicle, that could have been done at a cheaper cost than Mr B paid. It also hasn't persuaded me that the engine didn't need replacing and could have been repaired, based on the information it had.

Having considered everything, I don't think Mr B would have paid for his engine to be replaced if it wasn't needed. Mr B had only had the car for around three months when it broke down. Replacing the engine is expensive. I'm satisfied he did so because he was told by his garage that a new engine was needed. And I'm satisfied his warranty covers him for the costs he's incurred. So in the circumstances of this case, I find a fair and reasonable solution would be for Red Sands to reimburse Mr B what he paid to replace his engine.

Mr B didn't provide any further information as to any diagnostics he paid for beyond the compression test, so I'm satisfied Red Sands doesn't have to cover any costs Mr B paid for those.

Mr B clarified what he thought the delays were in the claim progressing, I've taken those into account when deciding the compensation award Red Sands should pay him for the unnecessary distress and inconvenience it caused him. I've also borne in mind that Red Sands hasn't provided any information to support that its staff treated Mr B courteously or helpfully. So I'm persuaded by Mr B's evidence on this point that Red Sands staff were unhelpful, which would have caused Mr B further unnecessary distress and inconvenience. Having considered all of that, I still think £200 is a fair sum to account for the impact Red Sands actions had on him.

In relation to the hire car, Red Sands has said that the repairer claimed nine hours for the engine replacement. So it says under the policy Mr B would have had hire cover for two days. However, in my provisional decision I said I was minded to find Red Sands could have agreed this claim sooner, and having considered the responses to my provisional decision, I still consider that to be the case.

So I consider Mr B incurred costs – such as for a hire car and other expenses such as train fares after he gave up his hire car – some of which wouldn't have been caused but for Red Sands poor handling of the claim. So rather than ask Mr B to calculate these expenses, I think a fair and reasonable outcome to this complaint is for Red Sands to pay the full hire entitlement of the policy which I understand to be £210.

I understand Mr B's concern about other individuals also having claims unfairly declined. This Service is set up to deal with individual complaints, our remit doesn't extend to reviewing a business' practices. That being said, under the dispute resolution rules (DISP rules) that operate, respondent businesses, such as Red Sands, should ensure that lessons are learned as a result of a determination by an Ombudsman (DISP 1.3.2A). I hope that provides some reassurance to Mr B.

My final decision

My final decision is that I uphold this complaint. I direct Red Sands Insurance Company (Europe) Limited to:

- Reimburse Mr B what he paid to have the engine repaired. It needs to add 8% simple interest* per annum to that amount from the date Mr B paid it, until the date of settlement.
- Pay Mr B £210 contribution towards hire car costs. It needs to add 8% simple interest* per annum to that amount from the date Mr B paid the repair invoice, until the date of settlement.
- Pay Mr B £200 compensation for unnecessary distress and inconvenience caused.

Red Sands Insurance Company (Europe) must pay the compensation within 28 days of the date on which we tell it Mr B accepts my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

* If Red Sands Insurance Company (Europe) Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr B how much it's taken off. It should also give Mr B a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 27 May 2024.

Michelle Henderson
Ombudsman