

The complaint

Mr H complains that Acromas Insurance Company Limited (Acromas) declined her claim on the Parts and Garage optional extra, of her roadside assistance motor insurance policy.

What happened

Mr H was registered as the new owner of the car on 24 December 2023. He took out the insurance a few days later on 29 December 2023.

There was a breakdown of the car reported at the beginning of February 2024. Following a further breakdown at the end of February 2024, where a fault with the assisted braking system (ABS) was reported. Mr H registered a claim under his Parts and Garage optional extra cover.

Acromas declined the claim. They noted that whilst the car had passed an MOT on 8 December 2023, whilst in the hands of the previous owner. It had failed an MOT a day earlier with a registered “*ABS fault*”.

Acromas pointed to a general exclusion in the policy conditions which they said meant they wouldn't settle claims where the fault existed prior to the purchase of the cover. Mr H remained unhappy and brought his complaint to our service for an independent review.

Our investigator looked into it. She said she didn't think Acromas were applying the exclusion fairly. She said that as the car had passed the MOT likely following repair, and this was prior to the policy being taken out, then it couldn't be considered a pre-existing fault.

Acromas didn't agree. They said Mr H should have been aware there was an issue with the ABS and that the claim was involving that same fault.

As no agreement was reached the case has been passed to me to decide.

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.

Our approach in cases like this is to consider whether the insurer's acted in line with the terms and conditions of the policy and fairly and reasonably.

Acromas have pointed to page 12 of the terms and conditions, which states:

“This policy will not cover: 1. Any costs for repairs following a Mechanical or Electrical Failure...if:

- A. The faults existed prior to the purchase of this cover,*
- B. The fault has been identified to You as part of either regular maintenance, MOT or at the point of another repair”.*

Acromas have provided a note from a failed MOT for Mr H's car (prior to him owning it or having the cover). Under "*repair immediately (major defects)*", it said "*Anti-lock braking system warning light indicates an ABS fault*".

Acromas have said this is the fault that Mr H is claiming for repair under this policy, and that it was pre-existing to him taking out the policy, and so cover is excluded. However, I am not satisfied that is the case.

The MOT passed the day after it failed. Whilst I can't be sure the ABS issue was repaired, I believe on a balance of probabilities, it is more likely than not that it was. I say this because the passing MOT certificate for the next day, was for the same garage, and there is no longer any note of any issue with the ABS. So, it seems to me the owner at the time did as instructed and had the fault repaired immediately.

I also can't be sure that the repair issue for this claim, is the same issue mentioned in the failed MOT. I say that because this repair claim is for the ABS pump, the failed MOT notes only mention an ABS fault. Also, there was an interim roadside callout which mentioned an issue with the ABS speed sensor.

Since the case was brought to us, Acromas have also said that Mr H was driving the car whilst it had a known fault and said a further exclusion therefore applies. The exclusion is for "*Mechanical or Electrical Failure was caused by faults, which You were aware of prior to the start of the journey on which the Breakdown occurred*" or "*The cost of repairing further damage if You continue to drive the Nominated Vehicle after a fault has developed*".

I don't think Acromas can fairly apply either of these exclusions. I haven't been persuaded that the most recent fault that Mr H is claiming for (regarding the ABS pump gage) is the same or caused by the previous issue of the "*Vehicle speed sensor not working, No speedo functioning preventing power steering from working*". Mr H has suggested the initial issue was resolved and that's why the cars mileage increased between the two callouts.

In summary, I don't think Acromas can fairly apply any of the exclusions to covering the repair claim. I don't believe the matter was pre-existing from prior to the policy being taken out, because it was likely repaired. I also don't conclude that Mr H is claiming for a fault that he was aware of prior to the final breakdown. Acromas should therefore settle the claim as I set out below.

Putting things right

I require Acromas Insurance Company Limited to do the following:

- Settle Mr H's claim in line with the remaining policy terms and conditions.
- If Mr H has already resolved the matter, Acromas should reimburse him the costs of the repair, subject to a valid invoice being produced.

My final decision

For the reasons given above my final decision is that I uphold the complaint. I require Acromas Insurance Company Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 November 2024.

Yoni Smith
Ombudsman