

The complaint

Mr M complains about Wakam's decision to decline a claim he made under his car insurance policy.

What happened

Mr M held a car insurance policy underwritten by Wakam. In May 2024, Mr M noticed scratches to the side of the car, which he said were caused by vandalism, so made a claim under the policy. Wakam accepted the claim and inspected the car.

During its inspection, Wakam identified a fluid leak from under the car, and it said the engine management light was showing and the engine wasn't working properly – cutting out not long after starting. So, it deemed the car beyond economic repair and treated it as a 'total loss'.

But due to some concerns it had about pre-existing damage, Wakam reinspected the car. And although it seemed to accept some of the body damage was the result of vandalism, it said the damage to the engine was the result of a mechanical failure which isn't covered under the policy. It therefore declined the claim. Mr M disagreed. He said his car was running fine before it had been vandalised and it had recently passed an MOT. As Mr M remained unhappy, he referred the complaint to this Service.

I wrote to both parties and explained I was minded to uphold the complaint. I said I'd considered the available evidence, and I didn't think Wakam had fairly declined the claim. I also said it wasn't fair for Wakam to hold Mr M liable for the storage costs it had incurred while dealing with the claim. And I said Wakam should pay Mr M £500 in compensation for the trouble and upset caused.

I invited both Mr M and Wakam to respond to my initial findings with anything they wanted me to consider further. Mr M accepted my findings. Wakam disagreed. It maintained the damage to Mr M's car engine was the result of a mechanical failure – and not something covered under the policy.

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.

I'll start by saying it's not the role of this Service to assess the damage to a car nor to actually establish the cause of any damage. My role is, in this case, to determine whether Wakam reached its decision on Mr M's claim fairly and reasonably.

It isn't disputed that Mr M's car has been damaged. It also isn't disputed the policy he has with Wakam provides cover in the event of damage to the car. This issue is whether Wakam has fairly and reasonably concluded the damage falls under one of the exclusions within the policy, which in this case says Wakam won't cover damage caused by mechanical failure.

In May 2024 Mr M reported the damage to Wakam. And it arranged for a recovery agent to collect the car, who took images of the damage for Wakam's consideration. Wakam completed a desk-based review (based on these images) and due to the level of damage sustained and the costs involved to repair the car, it said it was beyond economic repair. But it noted what it believed was pre-existing damage to some areas of the car, including poor paintwork, chips around the door and issues with the rear bumper. The recovery agent also noted (after opening the bonnet) oil leaking from the engine. As a result, it decided to arrange a visual inspection of the car.

The visual inspection took place in June 2024. The engineer said “ *At the time of our inspection we can confirm that the vehicle has been keyed all around. However the vehicle does not run for long before cutting out and the engine management light is on. There is what appears to be water leaking from under the vehicle in the engine bay however the levels are all correct.*

It appears that there is a mechanical fault with this vehicle...”

It's not disputed there were issues with the engine, the question is, on balance, is that damage due to a mechanical failure? And the onus is on Wakam to demonstrate it fairly applied the relevant exclusion. In this case, I don't think it has. That's because the engineer doesn't confirm a diagnosis of the engine problems or provide any commentary as to how or why they think the engine failure is the result of a mechanical failure. Given Mr M says the damage was the result of vandalism, and the damage to the exterior of the car supports this. So, in the absence of any compelling evidence to demonstrate the engine failure is the result of a mechanical breakdown, I think on balance, the issues with the engine are as the result of vandalism. And I'm not persuaded Wakam fairly declined the claim.

Wakam had an opportunity to investigate the cause of the damage to the engine but failed to do so. And I understand Mr M's car has now been disposed of by the recovery agent (who stored the car), so it's not possible to complete any further inspections of the car, or indeed repair it. As I can't reasonably conclude Wakam has fairly demonstrated it acted reasonably in relying on the relevant exclusion to decline the claim, I think Wakam should accept Mr M's claim and settle things on a total loss basis.

Wakam has identified some pre-existing damage to the exterior of Mr M's car. And its provided photos to support its position. It seems, on balance, there was pre-existing damage to Mr M's car, before the incident occurred, which I think would have had an impact on the market value. Wakam can deduct this from the total settlement figure it pays Mr M in settlement of the claim along with the policy excess. But it can't make any deductions for the engine damage.

Storage costs

As stated above, Mr M's car has been disposed of by the recovery agent due to unpaid storage costs that Wakam says Mr M was responsible for.

In June 2024, Wakam wrote to Mr M informing him he needed to pay the storage costs in order to retain the car. This included the storage charges whilst it inspected things. But I don't think it's reasonable for Wakam to hold Mr M responsible for costs while the claim was on-going and inspections were underway. Mr M had no control or involvement in where the car was recovered to after he made the claim or the length of time it would take Wakam to assess the car. In any event, I don't think it's fair for an insurer to charge a customer storage costs whilst it completes an inspection and considers the claim.

Mr M told Wakam he couldn't afford to cover the storage costs. Given the storage facility were refusing to allow Mr M to collect the car until he paid the outstanding storage fees, which he explained several times he couldn't afford to pay, he was in a particularly difficult position – and one in which he'd never be able to collect the car. And given Wakam was aware of Mr M's financial situation and his inability to cover these fees and was aware the costs continued to increase, I think it should have acted sooner and stepped in and returned the car back to Mr M pro-actively.

Because of the way Wakam handled the claim, in particular failing to complete an adequate inspection, and in my view, unfairly declining the claim, I think Wakam should cover or waive any outstanding storage costs.

Customer service

I have sympathy for Mr M's complaint about the way Wakam handled things. He's unhappy about its failure to progress the claim and that he's not had use of a car. I haven't detailed everything here – but I've considered everything Mr M has said about the impact on him. Mr M hasn't provided evidence of any financial loss as a result of not having access to a car i.e. receipts or invoices of any alternative transport costs, so there doesn't appear to be any financial loss as a result of Wakam's actions. And so, not something I need to direct Wakam to pay.

But I think Wakam's handling of the claim caused considerable trouble and upset over and above what I'd expect to see during a normal claims process. And I can see Mr M had to continue to chase Wakam numerous times for updates on the claim. And I think the worry of Mr M having to pay for the storage costs, in addition to him not having access to a car would have caused further distress and inconvenience. So, I think Wakam should pay Mr M £500 in compensation for the trouble and upset caused.

My final decision

For the reasons provided I uphold this complaint. I direct Wakam to:

1. Settle Mr M's claim on a total loss basis and pay him the market value, less the policy excess and any pre-existing damage deductions.
2. Pay interest on the final settlement amount. The interest should be calculated from the date Wakam declined the claim to the date of payment. The rate of interest is 8% simple interest per year*
3. Pay Mr M £500 in compensation for the trouble and upset caused.

*If Wakam considers that it is required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr M how much it has taken off. It should also give Mr M a certificate showing 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 M to accept or reject my decision before 21 April 2025.

Adam Travers
Ombudsman