

## **The complaint**

S complains that R.K.Henshall & Co Limited (RKH) mis sold them a motor fleet policy. This is because it was unaware that the excess payable on one of the vehicles was £1500.

## **What happened**

S purchased a fleet policy through RKH in November 2024.

In December 2024 one of the vehicles was involved in an accident, and when S made a claim, the insurer informed them that the excess for this vehicle was £1500 – when they thought it was £500. S had to pay the £1500 in order to get the vehicle released.

S said that they had not been made aware of this additional excess, and when purchasing the policy, they had asked RKH to keep excesses to a minimum. They also said that the cover letters for the policy documents didn't include the extra excess and so it wasn't drawn to their attention.

They complained to RKH, and RKH agreed they had made a mistake and agreed to pay the difference in the excess, which was £1000. However, they said they would only pay it when the claim is settled if it hadn't been recovered from the third party. The claim is likely to be non-fault, and so it is likely that it will all be recovered. They also say that it will complicate the recovery process if they pay it.

S wasn't happy with this and complained. The complaint wasn't upheld, and so they brought their complaint to us.

One of our investigators has looked into S's complaint and he thought that it was fair and reasonable that RKH should pay £1000 now instead of waiting until the claim was settled.

RKH didn't agree and so the case came to me to review.

I issued a provisional decision on the complaint. My provisional findings were as follows:

*I am intending to uphold S's complaint but with a different proposal for resolution and I will explain why.*

*There is no dispute that the right information wasn't given to S at the time the policy was purchased, and RKH are willing to cover the difference in the excess if it isn't recoverable.*

*So, I'm only considering whether they should pay the £1000 now, or when the claim is settled.*

*I understand that S's insurer is trying to get an admission of liability from the third party and so is looking to recover the full amount from them, including any excess.*

*While I appreciate RKH's stance that ultimately if the excess is recovered from the third party, S won't be out of pocket, it remains the case that as a result of RKH's error, S is out of*

*pocket now, and losing the use of, and interest on those funds in the interim. This is a consequential loss for a currently unknown period.*

*I also don't accept RKH's argument that it will complicate the recovery process if they pay the £1000 excess now.*

*However, because I can't enforce S repaying RKH in the event of recovery from the third party, I don't think I can direct that the £1000 is paid now, as this could result in S benefiting from receiving the money twice, which would be a form of betterment.*

*So, I propose below what I consider to be the fairest way of resolving this, recognising the loss of use of the £1000 by S, and the inconvenience caused.*

### **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.

S have responded and accepted my provisional decision, but RKH have not made any further comments.

And so, for the reasons above, I'm making my final decision in line with my provisional findings.

### **Putting things right**

In order to put things RKH should resolve the complaint in the following way:

- If the claim is determined as a fault claim, and S therefore can't recover the excess from the third party, RKH should pay S the £1000, plus 8% interest from the date S paid the £1000 to the insurer until the date RKH reimburse them.
- If the claim is settled as non-fault, and S are able to recover their full £1500 excess, RKH won't have to pay the £1000, but should pay 8% interest on that sum from the date S paid the £1000 over to the insurer until the date it was recovered from the third party.
- In addition, while I can't make an award for distress to a business, I can make an award for inconvenience caused, and so in respect of the mis sale, S has been inconvenienced by having to pay over additional funds to recover the vehicle, and devote time to dealing with the consequences of this mis sale, and I think RKH should pay £200 compensation for this now.

### **My final decision**

My decision is that I'm upholding S's complaint about R. K. Henshall & Co. Limited and directing them to put things right as above.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 1 July 2025.

Joanne Ward

**Ombudsman**