DRN-5625369

The complaint

Mrs L complains that when settling a claim on her motor insurance policy One Insurance Limited (OIL) unfairly deducted the policy excess sum and storage charges. She also complained that it did not refund the cost of an extended warranty.

Mrs L's partner, Mr B, has helped her to bring this complaint. But for simplicity I will refer to Mr B's comments and actions as being Mrs L's.

What happened

Mrs L's car was damaged in an accident that was the other driver's fault. Shortly after the accident she arranged for her preferred garage (the garage) to collect her car. She phoned OIL to report the incident and to claim on her policy. OIL told Mrs L that if she used her preferred garage OIL would only cover costs equivalent to those its own approved repairers would charge. Mrs L initially proceeded on that basis. However, she later accepted OIL's offer to refer her to an accident management company (AMC), which I'll call firm E, to progress her claim against the third party's insurer.

Firm E then took over handling of the claim. It told Mrs L that the garage had decided her car was a total loss. It also said it would arrange for the car to be moved to another repairer for storage where the costs to do so were cheaper. But, before firm E had moved the car, on 21 February 2024, Mrs L told OIL that she wanted it to deal with her claim under the terms of her motor insurance policy.

On 29 February 2024 OIL contacted Mrs L again and asked her to get in touch. Later, on 5 March 2024 OIL noted in its file that there had been some confusion over who was progressing the claim. But it said that as Mrs L had asked it to do so, it would take matters forward.

Subsequently, OIL and Mrs L agreed the pre accident value of her car as £13,700. OIL told her that from that sum it would deduct her policy excess of £300. It also said it would make a further deduction as the garage charged some excessive fees which it wasn't prepared to pay. OIL said Mrs L would have to pay an additional £770.40 in respect of the garage's fees which it would deduct from the claim settlement.

Mrs L didn't think that was fair and brought her complaint to the Financial Ombudsman Service. One of our Investigators looked into it. Initially he didn't think that OIL had done anything wrong. But on review he noted an eight day period of inactivity on OIL's part, which mean that the charge for storage was more than it otherwise would have been. The Investigator didn't think it was fair for Mrs L to pay storage charges for that period. So he said OIL should revisit the storage charge calculation taking out this period of avoidable delay.

OIL didn't agree with our Investigator's assessment of the complaint, so the matter's 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.

But before I address the specific elements of Mrs L's complaint I thought it may be helpful to add some contextual information. That's because the events in this case have been complicated by the involvement of firm E.

I'll explain that AMCs do not generally operate as agents of the motor insurers. Instead they are independent third parties. Their services may be offered where a driver's been involved in a non-fault accident. In those circumstances, AMCs may arrange repairs and provide hire cars but they are usually not doing so under the terms of the consumer's motor insurance policy.

Some of the advantages for consumers of using an AMC are that they will not have to pay their policy excess. Also they are usually given a hire car similar to their own car rather than a small 'category A' car which an insurer's approved repairer will usually supply while a car's being repaired. Further, AMCs will often provide hire cars after the damaged car has been declared a total loss. Many motor policies will not provide any form of courtesy car in those circumstances. So consumers might prefer AMCs to progress their claims rather than their own motor insurer.

Those AMCs will then seek to recover their costs from the insurer of the driver who is at fault. But, as I've said above, AMCs are separate businesses from insurance companies. And the basis on which they provide hire cars is known as 'credit hire'. That's because they essentially provide "credit" for the costs of the hire car in the expectation that the third party's insurers will reimburse that credit when the claim is settled.

In this case it appears that once OIL realised Mrs L's claim was most likely non-fault it offered to refer her to firm E. An offer she accepted. But, once she engaged firm E it was acting as an independent third party. It was not acting as an agent for OIL. So OIL is not responsible for the impact of anything that firm E might have got wrong or any charges she incurred while firm E was progressing the claim.

However, fairly early on Mrs L asked OIL to again pursue the complaint for her, so from that point onwards OIL was again responsible for any actions or inactions on the claim.

Was it fair for OIL to deduct the policy excess from the claim settlement?

Mrs L thought that, as she wasn't at fault for the claim, it wasn't fair for OIL to deduct the excess when settling it. But the excess is generally always payable when a claim on a motor policy is made irrespective of who is at fault. It's a cost Mrs L agreed to pay when she bought her OIL policy in the event of a claim. And the policy is quite clear that OIL will not cover this cost. For this reason, the excess is classed as a 'non-insured' loss. She wouldn't have had to pay that excess if firm E had seen her claim through to settlement. But OIL correctly applied her policy terms by deducting the excess when settling it.

In practice the deducted excess is usually recoverable from the third-party insurer. But as it's not covered by the policy itself I don't think OIL did anything wrong in telling Mrs L she would have to pay this initially.

Was it fair for OIL to deduct some of the garage's charges?

At the outset, when Mrs L told OIL that she wanted to use her own nominated garage, it told her that if she did so it would limit its costs to those it could have expected to pay if it had used one of its own approved repairers. And I think that's reasonable as that's in line with her policy's terms and conditions.

The garage applied a number of charges. It charged £88 + VAT to recover her car. OIL thought that cost was reasonable and agreed to pay it.

It also charged a £250 + VAT in administration fees, OIL indicated that this is not something it would have paid to one of its own approved repairers. So it refused to cover that cost as part of Mrs L's claim. Under the circumstances I think that's a reasonable position for it to take, given that it wasn't a cost it wouldn't otherwise have expected to pay. But it noted that

the garage had produced a repair estimate, which it hadn't charged separately. OIL said that, as this was something it would usually pay for, it would cover £50 + VAT for that service.

The garage also charged £38 + VAT per day to store Mrs L's car once it was deemed a total loss. OIL said that this was higher than what it would usually pay. The garage agreed to reduce that sum to £30 + VAT per day. OIL said that its repairers would usually charge around £20 a day. But it noted that there was guidance around fair storage charges which was issued to the police and local authorities. That guidance said a charge of up to £26 + VAT per day was fair. So it said it would limit the amount it would pay for storage charges to £26 + VAT per day (£31.20 in total) and that Mrs L would have to make up the shortfall herself. Given that it had told Mrs L at the outset it might take this type of action I think this approach was fair.

But I don't think all of the garage's charges that OIL attributed to Mrs L were reasonable. I'll explain that OIL said it would only cover its contribution to the storage charges from 1 March 2024 onwards. It said it chose this date as this was the date it became aware that the car had been deemed a total loss. In other words it would have known from that date onwards that the car was likely incurring storage charges, as that is what generally happens when a repairer is storing a car that will not be repaired.

However, I think OIL could have found out that the car had been deemed a total loss much sooner than it did. Mrs L asked it to take over pursuing her claim again on 21 February 2024. By that time the garage had already deemed her car to be a total loss. Indeed it appears that firm E was in the process of moving the car to another repairer because it didn't want to cover the garage's higher storage charges. So, if OIL had looked into the matter promptly it could have quickly learned, either by contacting the garage or firm E, that the car had already been deemed a total loss and would be most likely incurring storage charges. Indeed firm E would no doubt have told it that it was intending to move the car because of those charges. And OIL could then have taken steps to mitigate the effects of those charges. But it didn't do so and because firm E was no longer involved it didn't move the car either.

In fact OIL didn't take any meaningful action until 29 February 2024 when it asked Mrs L to contact it. And it subsequently agreed to cover some of the storage fees from 1 March 2024. That means that there was an eight day period where OIL didn't move the claim on at all. And throughout that period storage charges were continuing to accrue without OIL doing anything to mitigate that.

In the meantime it's unlikely that Mrs L was aware she would be accruing charges. As far as I'm aware she's not particularly experienced with motor claims or overly familiar with this process. And she would be relying on claims professionals like OIL to guide her through the process. So I doubt she'd have known that charges would be accruing, which OIL would expect her to pay for, especially for a period where the claim essentially sat idle. I don't think that's fair.

OIL pointed us to a system note dated 26 February 2024 where it said it had accepted a "claim reopen request". So it said it was taking action. But I don't think this amounts to meaningful action that actually moved the claim progress on. So I don't think this system note means it is fair to apply the storage charge to Mrs L for that period.

It follows that I don't think it was fair and reasonable for OIL to attribute the storage charges that built up during this period of inaction to Mrs L. So I think OIL should recalculate its claim settlement without applying the garage's storage charges to Mrs L for that eight day period.

It seems Mrs L would also have incurred storage charges in the period before 21 February 2024 when she asked OIL take over pursuit of her claim. However, any complaint she has about charges accruing during that period would not be because of anything that OIL did or didn't do. Firm E was still involved at that point. So I don't think OIL needs to cover any storage charges prior to 21 February 2024.

OIL argued that as Mrs L hadn't specifically complained about its delays in taking action then this shouldn't be something that we examined as part of this complaint. Instead it said she should raise this as a separate complaint. I reject that argument.

As far as I'm aware Mrs L was unaware that despite telling OIL she wanted it rather than firm E to pursue the claim, it didn't do so until eight days had elapsed. So I doubt she'd have known it was something she should raise separately. And as far as she was aware, OIL was progressing her claim, which she expected it to settle in due course.

But she was clearly unhappy when OIL told her that she would have to pay £770.40 towards the garage's charges. And it's apparent to me she thought OIL should be covering those charges as part of her claim. So, when it told her she would be responsible for a significant part of it, she complained. And while she didn't express her complaint in terms of a complaint about delay, I don't think she needed to in order for me to consider it here fairly and reasonably. In my opinion it's clearly connected to the issues Mrs L complained about. So, that means I'm entitled to consider it.

I'll explain that the Financial Ombudsman Service has an inquisitorial remit. Essentially that means we investigate complaints by examining the evidence and asking questions. We're not restricted in our investigations to only looking at what we were initially told or the evidence initially presented. And it's often the case that consumers who – for the most part – are not experts in the subject they are complaining about and who might also not be party to all the events that have gone on 'behind the scenes'. So it may often be the case that a consumer will not know exactly what has gone wrong or be certain that something has gone wrong. Instead they may well just have a sense that that a business has treated them unfairly, unreasonably, or unjustly, without knowing exactly how or why.

And I think that's the case here. From Mrs L's perspective she believes that OIL has unfairly reduced her claim settlement. That is the root cause of her complaint, not the mechanism which caused that reduction to come about. And, as I've indicated above, I've found some of the reduction that OIL applied to be fair. But our examination of the evidence has also shown that OIL could have taken actions to mitigate those losses but didn't do so. Mrs L was most likely unaware of that. And that has led, in part, to some of the unfairness she believes she's suffered. I don't think it was necessary for her to articulate her complaint as being about one of delay, rather than the unfairness she experienced because of that delay, before it would be reasonable for me to consider it.

I'll add that I'm aware OIL is managing a claim for Mrs L's uninsured losses under the terms of the legal expenses insurance which sits alongside her motor insurance policy. And when managing that claim it has asked the third party insurer to reimburse the garage charges it deducted. But I've seen no evidence that guarantees the third party insurer will pay that claim.

Further, as far as I'm aware OIL may alter the quantum of that uninsured losses claim to reflect the adjusted sums once it has revisited its claim settlement. So I don't see the presence of the claim for uninsured losses as preventing OIL from settling the claim on the comprehensive policy fairly.

Was if fair for OIL to refuse to reimburse Mrs L's extended warranty

Shortly before the accident Mrs L had extended the warranty on her car at a cost of £500. But as the car was deemed a total loss, and she was not entitled to a refund on that warranty, she didn't get the benefit of it. She claimed for the cost of that. But this is quite simply something that isn't covered by the terms of her motor insurance policy. So I don't think OIL did anything wrong in refusing to reimburse that cost.

Putting things right

I require One Insurance Limited to recalculate the claim settlement without a reduction for storage charges during its eight days of inactivity when progressing the claim. It should pay any shortfall from its original settlement to Mrs L. And as she's been without the use of the money, it should add simple interest to the shortfall at a rate of 8% a year from the date it initially settled her claim to the date it makes payment[1].

My final decision

For the reasons set out above I uphold this complaint. I require One Insurance Limited to take the steps set out under the heading of 'putting things right' above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 18 July 2025.

Joe Scott
Ombudsman

[1] If OIL considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mrs L how much it's taken off. It should also give her a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.