

The complaint

Mr F has complained about the way Marshmallow Insurance Limited dealt with his claim under his motor policy following an accident.

What happened

Mr F was involved in an accident on 19 October 2024. He is adamant that it wasn't his fault, and he believes there was CCTV footage which could prove it. He has complained that Marshmallow didn't get the CCTV footage in time and now it's unavailable.

He has also complained about the delay in sorting out his claim for the damage to his car. He said this was grossly delayed causing him financial and work issues.

Marshmallow agreed it had unnecessarily delayed in sorting out his claim for the damage to the car. It apologised for this and paid Mr F £150 compensation. It said it had asked for the CCTV but that it was unavailable.

Mr F also complained that Marshmallow didn't respond to his complaints promptly.

As Mr F remained dissatisfied, he brought his complaint to us. The investigator didn't think Marshmallow needed to do anything more. She also explained that as complaint handling wasn't a regulated activity under the regulations set up by the Financial Conduct Authority (FCA), it was not something this service could look at.

Mr F remained unhappy, so his complaint has now 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.

Having done so, I'm not upholding this complaint. I do understand and appreciate this will be disappointing for Mr F, so I'll explain why.

First, Mr F has subsequently complained about the liability decision Marshmallow came to in holding him at fault for causing the accident. But that issue does not form part of this complaint and is being dealt with separately. This is because under our rules, Marshmallow must have the chance to consider it before this service can be involved. So, I won't be considering that issue in this decision.

Secondly, Mr F also complained about the manner Marshmallow and one of its advisers dealt with his complaint. As the investigator explained, because the regulations under which insurers must operate don't regulate how a business deals with complaint handling, that in turn means it's not something this service can look into specifically for him.

The delay in dealing with Mr F's claim for the damage to the car

I can see that Mr F opted to use his own garage to assess the damage to his car instead of Marshmallow's approved repairer. That meant the repair estimate needed to be sent to Marshmallow for their engineers to consider, rather than the approved repairers taking the car away to assess themselves.

Mr F submitted the repair estimate to Marshmallow on 15 November 2024 so nearly a month after the accident occurred. I can't hold Marshmallow responsible for this part of the delay as it wasn't its approved repairers who needed to provide the repair estimate. So that part of the delay is not the responsibility of Marshmallow.

However, Marshmallow's engineers didn't actually consider this repair estimate for almost four weeks later on 11 December 2025. The delay occurred due to a mistake made by Marshmallow in not forwarding the repair estimate to the right party. Marshmallow said it always hopes to review these sorts of estimates within five working days. So obviously having Mr F wait for nearly four weeks was unacceptable and would have caused Mr F distress and much frustration.

I understand Mr F's car was not economical to be repaired and Marshmallow have now paid him the market value of his car. This would be subject to the payment of an excess which would have been a little higher given he chose to use his own garage, instead of Marshmallow's approved repairers.

Also, Mr F should note the excess is always payable in this way. If it is the case that the other driver is at fault, then the other driver insurer's refund the excess, not Marshmallow. This is because the payment of the excess is not insured under any motor policy. That means the excess is classed as an uninsured loss, so only the other driver's insurers are able to refund it, if and only if, it was decided that the other driver caused this accident. Otherwise paying the excess in the event that the policyholder's claim is paid, is always the responsibility of the policyholder like Mr F here, and not the insurer like Marshmallow.

Marshmallow acknowledged its mistake of delaying in dealing with the repair estimate and apologised. This is what I would have expected it to do. It also decided that its mistake warranted a compensation payment to Mr F which I also agree with. It paid him £150 compensation for this delay of nearly four weeks. On our website we have published our approach to compensation. I'm of the view that the amount of £150 compensation for this delay of nearly four weeks is fair and reasonable and in line with our approach.

CCTV evidence

Following the accident, Mr F said he made enquiries, given there were two CCTV cameras which should have seen how the accident occurred. And he told Marshmallow to get this CCTV footage as he was told the footage would only be sent to the insurer, being Marshmallow and not him.

I can see throughout Mr F's complaint with Marshmallow over this that there was some confusion over the dates Marshmallow might have asked the owners of the CCTV for the relevant footage. So, I'm not surprised that Mr F believes that Marshmallow didn't ask for it in time.

However, from Marshmallow's file, I can see it made a request to the owners of the CCTV on 28 October 2024, so 10 days after the accident. Marshmallow's request to the CCTV owners included all the correct details so that the right footage could be located. So, I think Marshmallow didn't do anything wrong here at this point.

Unfortunately, the owners of the CCTV cameras responded to Marshmallow on 14 November 2024, explaining that those cameras were hired out and so they had no control over the data they might contain. However, they were now going to contact the people who had hired them. Sadly, on 6 December 2024 the CCTV owners reported back to Marshmallow that no footage was available for the time of Mr F's accident. This is because the cameras operated on an overwrite loop which meant any footage of the day of the accident would no longer be available.

I very much understand how frustrating this is for Mr F. However, from what I've seen Marshmallow did ask for the CCTV footage in good enough time. It's not responsible for the CCTV cameras and nor is it responsible for the overwrite loop issues. That means I can't say that it did anything wrong here.

Conclusion

I don't think it's the fault of Marshmallow that the CCTV footage is no longer available. So, I consider Marshmallow has nothing to answer here.

As regards Marshmallow's delay in dealing with the repair estimate from Mr F's chosen garage, I think it's done enough by acknowledging its mistake, apologising, and paying Mr F compensation in the sum of £150.

So, on this basis I don't think Marshmallow needs to do anything more in relation to these two issues.

My final decision

So, for these reasons, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 12 September 2025.

Rona Doyle
Ombudsman