

The complaint

Ms M complains about Tesco Underwriting Limited ("TUL") and their referral to a credit hire provider.

What happened

The claim and complaint circumstances are well known to both parties. So, I don't intend to list them chronologically in detail. But to summarise, Ms M held a motor insurance policy, underwritten by TUL, when she was involved in a non-fault road traffic accident. So, she contacted TUL to make a claim.

When Ms M submitted her claim online, she initially stated she wouldn't need a replacement car. But the same day, she contacted TUL to see if a courtesy car could be provided. TUL explained a courtesy car would most likely not be available under the policy she held, as they believed her car would most likely be deemed a total loss. Ms M accepted this and took no further action.

The following day, TUL proactively contacted Ms M to offer her a hire car, explaining they could refer her to an accident management company, who I'll refer to as "A", who would look to arrange and claim the costs of this from the third-party insurer ("TPI"). Ms M received a hire car from A, and A sought to recoup these costs from the TPI.

But the TPI refused to pay the costs A had claimed. And A returned to Ms M on several occasions requesting information, such as bank statements and Ms M's authority to begin legal proceedings. Ms M was unhappy about this, and that she might be liable for A's costs if they were unable to recoup them from the TPI. So, she contacted TUL to raise a complaint about this.

TUL have set out why they felt their referral to A was a fair one, following Ms M's request for a replacement car and the fact a courtesy car couldn't be offered through the policy they provided. So, as Ms M entered into a separate agreement with A, they thought it was A's responsibility to explain the terms and conditions of this agreement. And they didn't offer to do anything more. Ms M remained unhappy with this response, so she asked our service to investigate her complaint further.

Our investigator looked into the complaint and upheld it. Both parties have had sight of this outcome, so I won't be recounting it in detail. But to summarise, our investigator felt TUL had failed to provide a good referral to A, in line with our services approach. And they felt this failure had caused Ms M unnecessary stress, worry and inconvenience.

So, they recommended TUL pay Ms M £250 compensation to recognise this and take over the claim on her behalf if A did eventually return to Ms M for payment of their costs.

TUL disagreed, providing several comments setting out why. They provided call recordings, and copies of Ms M's agreement with A, which they felt supported their position that their referral had been a fair one, based on Ms M's requests and needs. So, they didn't agree they should pay compensation or cover any potential future costs Ms M may be liable for.

Our investigator considered all of TUL's comments, but their opinion remained unchanged. TUL continued to disagree and so, the complaint has been passed to me for a decision.

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 upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Before explaining why I've reached my decision, I want to set out exactly what I've considered, and how. This decision will focus solely on the actions of TUL when referring Ms M to A, and the impact this referral had. I note Ms M raised other concerns when coming to our service, including the total loss settlement she received for her car but I can't see that this issue was raised to, or addressed by, TUL. So, our service is unable to consider these at this stage.

I also want to be clear that, as A are a separately regulated accident management company, I'm unable to consider, or comment on, the service A provided to Ms M directly. This includes whether the hire car they supplied her was fit for her needs. She will need to raise these concerns with A directly, if she hasn't already.

And when considering the referral TUL made, I want to reiterate our services approach, and expectation, which follows industry guidelines and standard industry approach. Where a referral is made to another company, such as A, our service expects an insurer such as TUL to provide their customer with information that is fair, clear and not misleading. This then allows the customer to make an informed decision about how they wish to proceed.

In the situation where a referral is made for the provision of credit hire, our service expects an insurer to make it clear the potential ramifications of proceeding with this option. Specifically, we would expect an insurer to make it clear that by entering into a credit hire agreement, a customer is stepping outside of a regulated contract of insurance and to explain the implications that will have. More importantly, we would expect an insurer to make a customer aware that, if the at fault TPI won't cover the costs incurred under this separate agreement, the customer would potentially be liable for them.

We would also expect an insurer such as TUL to act in the best interests of their customer and so, carefully consider whether these services are suitable to those customers individual circumstances. This includes whether there is a need for a hire car.

So, I've considered the evidence and information available to me against this approach, and these expectations. Having done so, I'm satisfied TUL's referral to A was a poor one, and I'll explain why.

I note Ms M's original claim was made online, where she stated she wasn't in need of a replacement vehicle. But the same day, I've listened to a call where she changes this position, requesting a courtesy car be provided. On this call, TUL explain that, as they felt her car was most likely a total loss, a courtesy car would not be provided under the policy she held. I've seen the policy terms and conditions, and I'm satisfied this was the correct information. These terms explain a courtesy car is only provided where a car is deemed repairable and at this point Ms M's car hadn't been inspected by an engineer. And based on the information Ms M provided in her initial claim; it was predicted that the car would be

written off.

On this call, I've heard Ms M accept this explanation, with no further push back. So, at this point I'm satisfied Ms M was willing to continue without a replacement car and so, this persuades me a replacement car wasn't a necessity. This is further supported by Ms M's actions after the eventual hire car provided by A was taken back, where she utilised public transport to travel.

Despite this, I've listened to a call TUL made to Ms M the following day, where they proactively offered Ms M a chance to receive a hire car through a referral to A. Having listened to this call in its entirety, I'm satisfied TUL failed to make Ms M aware that by accepting this referral, she would be entering into an entirely separate agreement with A. Nor did TUL set out the implications this referral would have, and how it could potentially impact Ms M financially should the TPI refuse to cover the costs A incurred. In fact, I'm persuaded TUL misled Ms M, as they stated where there was a non-fault claim, a hire car is always provided and paid for by the at fault TPI, before explaining at the end of the call that everything should be straight forward, with no mention of what could happen should the TPI refuse to cover the costs, as it should've been reasonably known to TUL that this may happen.

Further to this, I'm satisfied TUL unreasonably led Ms M to believe the provision of this hire car was part of the service they provided directly. Specifically, TUL stated when discussing a hire car, and the call the day before, they were "not sure why you were advised we couldn't provide one – I'm sorry that happened".

So, because of the above, I'm satisfied TUL's referral to A was a poor one, as it failed to provide Ms M with the information we would expect to allow her to make an informed choice on how she wished to proceed.

I recognise TUL will likely disagree with the above. And I want to reassure them I've considered all the representations they have put forward, even if I haven't commented on them directly, in line with our services informal approach.

This includes their belief that it was A who were responsible for setting out the terms of the credit hire agreement, and its implications. And, that Ms M signed the credit hire agreement that authorised A to provide her with the hire car in question.

But crucially, this isn't the approach our service takes. And specifically in this situation, TUL proactively offered the referral to A. So, we would expect TUL to ensure they were providing the necessary information to Ms M before a referral took place. And I'm not satisfied they did. So, as I'm satisfied TUL's referral to A was a poor one, I've then turned to what TUL should do to put things right.

Putting things right

When deciding what TUL should do to put things right, any award or direction I make is intended to place Ms M back in the position she would have been in, had TUL acted fairly in the first place.

In this situation, had TUL acted fairly, they would have provided Ms M with fair, clear and not misleading information setting out what the referral to A would entail, and the potential ramifications of this.

So, I've then considered what I'm persuaded Ms M would most likely have done, had she been provided with this information, as this impacts the directions I make. For me to say TUL

should compensate Ms M, as well as take any additional action, I need to be persuaded Ms M would have taken a different decision and importantly, not proceeded with the option of credit hire.

I recognise TUL feels Ms M would always have opted to enter into the agreement with A, considering she signed the credit hire agreement they have provided after obtaining this from A. But crucially, I don't agree.

Having listened to the first call, I'm satisfied Ms M accepted a courtesy car couldn't be provided, after her initial request. So, I'm satisfied it's reasonable for me to assume Ms M could have proceeded on this basis, making use of public transport and other transport options as she did after the hire car A provided was taken back.

Further to this, considering Ms M's complaint and her testimony about the engagement she's needed to have with A to assist them in attempting to recoup their costs through legal action, I'm satisfied Ms M is unhappy with the fact she's now required to provide personal information above what she would have needed to provide TUL had she received a courtesy car through her insurance policy. And, that legal proceedings are an option that is now required.

Ms M has sought independent legal advice to understand whether this is something she is forced to comply with. And for Ms M to go to the lengths to seek this advice, I'm satisfied it's reasonable for me to assume that, had TUL made her reasonably aware there was a chance legal proceedings may be required, and that ultimately she may be left responsible for the costs A incurred when providing her with a hire car, she would have chosen not to proceed with this option.

Considering the above, our investigator recommended TUL pay Ms M £250 compensation to recognise the distress and inconvenience she's been caused by the information requests from A, alongside the worry regarding legal proceedings and the potential of being responsible for A's costs has incurred.

Having considered this recommendation, I'm satisfied it's a fair one that falls in line with our services approach and what I would have directed, had it not already been put forward. I'm satisfied it is significant enough to reflect the impact Ms M has been caused thus far, including the inconvenience of needing to provide information that I wouldn't have expected to be required through a claim made entirely under the policy TUL provided. And the ongoing worry she has faced after realising she may ultimately be left responsible for the costs A accrued. So, this is a payment I am directing TUL to make.

Further to this, as I'm persuaded Ms M most likely wouldn't have proceeded with the hire car, had TUL completed a good referral as our service would expect, it would be unfair and unreasonable for Ms M to ultimately bare the costs of A, should they ultimately return to her for payment. So, to place Ms M back in the position she should have been in, should A return to Ms M for payment of their costs, I am directing TUL to cover these as part of her insurance claim.

But I must make Ms M aware that as she did enter into a separate, legally binding agreement with A, she is bound to the terms and conditions of this. So, she will need to fully co-operate with A to ensure they are able to continue with their attempts to recoup their costs from the TPI. And our service is unable to comment, or effect, these legal requirements.

I also want to recognise that, from the evidence available to me, it appears Ms M has a credit protection policy in place under the agreement she entered into with A that should indemnify her for A's costs, should they be unable to recoup these from the TPI. So, I would only expect TUL to cover A's costs if it becomes clear this policy will not provide Ms M cover for these costs, should A have pursued all available avenues to obtain payment from the TPI.

My final decision

For the reasons outlined above, I uphold Ms M's complaint about Tesco Underwriting Limited and I direct them to take the following action:

- Pay Ms M £250 compensation; and
- Cover A's costs as part of Ms M's original insurance claim, should A be unable to recoup their costs from the TPI and it's made clear the credit protection policy Ms M has in place is unable to cover these as well.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 23 September 2025.

Josh Haskey
Ombudsman