

The complaint

Mr H has complained about Bastion Insurance Company Limited. He isn't happy with the way it dealt with a claim under his motor breakdown insurance policy.

For ease of reading any reference to Bastion includes its agents.

What happened

Mr H had a problem with his car that caused him to breakdown in the outside lane of the motorway. Fortunately, he managed to nurse the car to the hard shoulder before contacting Bastion's agent for assistance, but it turned down the claim. It said Mr H's car wasn't completely immobile, and its policy didn't provide cover in these circumstances.

As Mr H wasn't happy about the decline of his claim and how he had been treated he complained to Bastion. When it looked into Mr H's complaint it offered to pay him the costs he incurred in having to recover his car (£220) and £75 by way of compensation as a gesture of goodwill. But as Mr H didn't accept this and complained to this Service Bastion withdrew its offer.

Our investigator looked into things for Mr H and his complaint was eventually upheld. The initial Investigator thought Bastion had acted fairly, and in line with the policy terms and conditions. He entered into discussions with Bastion's agent about covering some of the costs it had proposed to pay when it originally considered the matter, but it no longer wished to pay Mr H's recovery costs. And when the matter was reconsidered by another Investigator, she upheld the complaint. She thought it was clear that Mr H hadn't been treated fairly as he was left stranded at the side of a busy motorway when he had made it clear that he could only do 5 mph – so to continue to drive on the motorway would be dangerous. And so, she asked Bastion to pay Mr H's recovery costs as it should have attended on Mr H when he broke down at the side of the motorway and to pay an additional £125 (£200 total) by way of compensation for the clear stress and inconvenience all this caused Mr H.

Bastion didn't agree and it reiterated that its terms were clear and said as Mr H's car was mobile, because it could physically move, it wasn't covered under the policy. And so, the matter has been passed to me for review.

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 don't think that Mr H has been treated fairly here, and his complaint should be upheld. I know this will come as a disappointment to Bastion, but I'll explain why.

I know Bastion's agent strongly believes that only the contract term can be considered when looking at these kinds of complaints. But, as it is aware, this Service has always looked at complaints on an individual case by case basis and in a fair and reasonable way. If it is felt something isn't fair, then we will look to consider the reasonableness of the actions taken and decisions made.

In this instance Mr H called to say his car had broken down and wasn't driveable. He was driving in the outside lane of the motorway when he had difficulties with his car that forced him to take evasive action, but he managed to get the car to the hard shoulder of the motorway before calling for help. I accept that when he called Bastion, he outlined that he wasn't in an unsafe position which was his perception at the time. Bastion's agent says the policy defines breakdown as *'an electrical or mechanical failure which immediately renders the vehicle immobile'*.

So while technically using the most favourable interpretation for Bastion, and one which clearly suited them, Mr H's car may not have been completely immobile. But I don't think Bastion applied the policy terms in a fair and reasonable way. I say this because while Mr H's car may have been moveable, I don't think that means it was what most people would describe as mobile. I accept there maybe occasions when a vehicle is mobile, such as it going into limp mode but it can still be driven at a safe speed in *'limp'* mode to a garage or place of safety, but that isn't what happened here.

In this instance it clearly wasn't safe or sensible to drive the car as Mr H could only do about 5 mph and to undertake such a speed on a motorway would clearly be dangerous and hard shoulders aren't suitable for driving. The National Highways describes them as a *'safe refuge'* for stopped vehicles and *it's illegal to drive on the hard shoulder, or to stop on except in an emergency.'* And to have continued driving would have caused further damage and potential danger to Mr H and other road users.

It is of note that Bastion's agent agreed to pay the costs Mr H incurred in having his car recovered and compensation during the early stages of considering this complaint. I know this was as a gesture of goodwill, but obviously Bastion felt that this was the right thing to do, and it accepted our Investigator's position at one stage before changing its mind. It highlighted that Mr H said he was in a safe place when he broke down and it felt the level of compensation was too high.

While I accept that Mr H said he didn't feel unsafe, he did tell Bastion when he called for help that he was on the hard shoulder of a busy motorway. Bastion has highlighted that each case needs to be considered on its own merits and feels the consumers personal feeling at the time of contact cannot be overridden. But I think the particular circumstances need to be taken into account and obviously everyone's perception of threat and vulnerability is different. So, however Mr H did or didn't feel I would expect him to be told to ensure he was safe and to get to a place of safety, away from the car behind the barriers, if possible, as he was stranded at the side of a very busy motorway which meant he was in a vulnerable or unsafe position, especially when his car could not be driven at more than 5 mph.

Given all of this and when thinking about what's fair and reasonable in all the circumstances I'm satisfied the car was what most people would consider immobile when contacting a roadside assistance provider. Mr H had managed to nurse his car to the hard shoulder from the outside lane of the motorway and was unable to do more than 5 mph. And the sort of problem Mr H experienced is exactly the sort of problem people buy a roadside assistance policy to protect them against.

Turning to the level of compensation, I agree with Bastion that every case should be considered on its own merits. In this particular instance Mr H faced a fair degree of stress and inconvenience while stranded at the side of a busy motorway when he thought he had a policy in place to cover the breakdown. Mr H had just faced a scare in having to get his car over to the hard shoulder from the outside lane only to discover his breakdown provider wouldn't turn out and he had to hastily try to arrange recovery at the side of the motorway. I'm sure Bastion had this in mind when it offered £75 as a gesture of goodwill when Mr H first complained, but I agree with our Investigator that £200 feels fairer for the acute stress Mr H faced here. Mr H had taken this cover to give him reassurance if his car broke down and it must've been stressful to be told that his breakdown wasn't covered, especially when he was stuck at the side of a motorway in an already stressful position.

As such, I think the fair and reasonable thing to do, in the particular circumstances of this case, is for Bastion to pay Mr H £200 compensation for the stress and inconvenience all this clearly caused. Overall, I'm satisfied the car had clearly suffered a mechanical failure and wasn't in a condition to be driven on a busy motorway at 5 mph and so Mr H should be paid his recovery costs subject to reasonable proof, plus 8% simple interest for the time he's been without the money.

My final decision

It follows, for the reasons given above, that I uphold this complaint. I require Bastion Insurance Company Limited to pay Mr H's recovery costs subject to reasonable proof plus 8% simple interest from the date of payment to the date of settlement. And to pay £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 22 December 2025.

Colin Keegan
Ombudsman