

## **The complaint**

Mr K complains about Marshmallow Insurance Limited's handling of a claim on his motor insurance policy. Amongst other things he said it unfairly refused him a courtesy car, undervalued his car when settling his claim and wouldn't allow him to add another car to the policy.

## **What happened**

Mr K was in an accident when his car hit a deer. He claimed on his policy. Marshmallow initially told him that he wasn't entitled to a courtesy car. After he complained it told him he could have a courtesy car but Mr K was unhappy with the provider of that service.

Marshmallow deemed his car to be a total loss. Mr K was dissatisfied with Marshmallow's valuation of his car and the deductions it made from that value before settling his claim. Also, after he bought another car Marshmallow told Mr K he couldn't add that to his policy.

Mr K brought his complaints to the Financial Ombudsman Service. After he'd done so, on 13 July 2025, Marshmallow responded to his complaint. It acknowledged that it hadn't got everything right. So it offered him £325 compensation for his distress and inconvenience. It also later said it would pay him a further £60 towards the valuation of his car and add simple interest to that sum.

Mr K remained dissatisfied. One of our Investigators looked into the matter. She thought Marshmallow's offers to put things right were reasonable. Mr K didn't agree with our Investigator's complaint assessment so his complaint's 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.

In bringing this complaint and responding to our Investigator's assessment of it Mr K's made a number of points. I've considered everything on file. But in this decision I don't intend to address each and every issue raised. Instead I will focus on what I see as being the key issues at the heart of Mr K's complaint (which Marshmallow is responsible for replying to), and the reasons for my decision.

I'll add that Mr K also raised a complaint about the mis-sale of a legal expenses policy. We've explained to Mr K separately that Marshmallow Insurance Limited is not responsible for responding to that complaint. So I'm not going to make any findings on it in this decision.

### *Courtesy car*

Very soon after Mr K submitted his claim Marshmallow notified him that it wouldn't be able to provide him with a courtesy car. But Mr K had specifically paid for a courtesy car upgrade which entitled him to a courtesy car if his car was deemed a total loss. And Marshmallow did, around four days later, identify that it had made a mistake in its earlier communication, as Mr K was entitled to a courtesy car. So, it's clear that its original communication here was incorrect.

I understand this was an initial source of frustration for Mr K which took him some time to sort out. But I note that Marshmallow acknowledged this and it was something it thought about when it offered him compensation.

After Marshmallow had confirmed that Mr K was entitled to a courtesy car it gave him the details of its partner, which I'll refer to as S, which provides courtesy cars for it. Mr K was unhappy about trying to source a courtesy car from S as he didn't find it a trustworthy company and he didn't think he would have appropriate protection if things went wrong. That might have been his interpretation of S. But his policy explicitly said that if a courtesy car was required, S would provide it. So, Marshmallow was simply acting in line with Mr K's policy stipulations when it referred him to S for a courtesy car.

I understand Mr K was unhappy with this arrangement particularly as S's website was down when he initially considering engaging with it. But I don't think that means its courtesy cars or service weren't fit for purpose. And Marshmallow gave Mr K its phone number so he could contact it to arrange a car. It was his choice alone not to do that. And a courtesy car provided by S was what he agreed to when he took out the policy. That policy is a contract between Mr K and Marshmallow, so I don't think it did anything wrong by referring Mr K to S in line with his policy details.

Similarly, I don't think any inconvenience or additional expense Mr K incurred because he didn't wish to take a courtesy car from S is something it would be fair to hold Marshmallow responsible for.

#### *Valuation of Mr K's car and settlement of his claim*

Mr K is very unhappy with the amount that it settled the claim for the total loss of his car for.

Marshmallow initially valued Mr K's car at £2,750. However, after Mr K complained and sent it some adverts of similar cars for sale Marshmallow increased its initial valuation to £3,710. Mr K accepted that valuation.

However, I can see that when Marshmallow valued the car at the above sum its engineer who provided the figure to Mr K said:

***"I can justify an updated value of £3,710 less your excess and outstanding premium & Total loss deduction."***

I've added the bold emphasis to the quote above. That's because, what the engineer was actually trying to say, but apparently not doing so particularly clearly, was that Marshmallow would use the sum of £3,710 as the starting valuation figure *before* making a number of deductions. Only after it had made those deductions would it actually settle Mr K's claim. It doesn't appear Mr K was aware of this when he accepted the valuation. And, after it had made those deductions, the actual amount it paid to Mr K reduced to around £1,479. That is clearly considerably less than the initial sum of £3,710 but I don't think it's unfair.

I'll explain that Mr K's car had, before he'd owned it, been deemed a category N total loss. But someone had repaired it and put it back on the road. That does affect the car's valuation. That's because the fact that the car had been previously found a total loss is a matter of record and the car still carries a total loss marker. A marker of that kind can put off potential buyers, no matter how well it was later repaired. This often affects a car's value.

In this case Marshmallow reduced its valuation of Mr K's car by 20% – £742 – to reflect the fact it had previously been deemed a total loss. We asked Marshmallow to evidence how it had arrived at that sum. It showed us adverts for other cars which had previous total loss markings. And generally those were being advertised for more than 30% less than the full value of cars without a total loss marking. So I think Marshmallow's decision that the previous total loss marking on Mr K's car would reduce its value by 20% was reasonable in the circumstances. That's because the evidence shows that the total loss marking could affect the advertised prices of such cars by a higher figure.

I note Mr K thinks the valuation of £3,710 already reflected the fact that his car was a previous total loss. But I'm satisfied that it didn't. I'll explain that when looking into complaints about vehicle valuations we check trade guides, adverts and other relevant evidence. We generally find the guides most persuasive as they're based on nationwide research of likely selling prices. So, they're often more reliable than individual adverts.

In this instance Marshmallow used three industry recognised trade guides to value Mr K's car. Those gave valuations of £3,155, £3,775 and £3,710. Those valuations are for cars in a good condition for a vehicle of that age and mileage that have not previously been deemed a total loss. So those valuations have not been adjusted to allow for an existing total loss marker, which as I've said above, would generally reduce the valuation. So it's not the case, as Mr K believes, that the trade guides valuations were adjusted for the total loss marker. It's also not the case therefore that Mr K's car has suffered a 'double' deduction because of the previous total loss marker.

Mr K's also said that when he took the policy out he valued the car at £4,170. He said that this declared value "established the expectation" that both parties agreed upon when he took out the policy. But that's simply not the case. Mr K's policy says that in the event Mr K's car is a total loss the most Marshmallow will pay to settle the claim is its market value. It defines market value as:

*"The cost to replace a vehicle with one of similar age, same make and model, mileage and condition at the time of the accident or loss. We decide this amount and will take into consideration factors such as a valid MOT, how the vehicle was purchased and whether it has been previously declared a total loss."*

So Mr K's policy is not what's known as an "agreed value" policy which guarantees that the insurer will pay a certain sum in the event the car is a total loss. Instead the valuation given when taking the policy out is only a guideline that the insurer uses to decide if it wants to offer the policy and if so what premium to charge.

In other words the valuation given on Mr K's policy documents does not mean that is the sum Marshmallow would expect to settle any claim for. Indeed Marshmallow would have no doubt that it would settle the claim based on the market value at the date of loss. And it will be well aware that market value will be affected by things like the car's age, mileage and whether or not it's previously been a total loss. So it's not the case that the valuation given when Mr K took out the policy is reflective of its market value.

It follows that I think Marshmallow valued Mr K's car fairly. Additionally, while our Investigator was looking into the complaint. Marshmallow offered to increase its valuation by £60 to bring the sum (before making deductions) nearer to the highest value given by the trade guides. I think that's fair.

*Deducting Mr K's outstanding premium and adding another car to the policy.*

Mr K was paying for his policy premium in monthly instalments. So he hadn't paid the full annual premium figure at the date that Marshmallow settled his claim. But, once an insurer has paid out on a policy the customer has had the benefit of that policy. And in those circumstances I think it's reasonable for the insurer to ask for the full amount of the policy's premium even where there would otherwise be a period left on cover.

Further, the policy allows Marshmallow the discretion to deduct any premium outstanding from a total loss settlement. And, as I've said above, Marshmallow's engineer said that the £3,710 settlement was before deducting his outstanding premium. So it did try to make Mr K aware of this, even though it didn't actually give him the appropriate figures at that time.

When Marshmallow settled the claim as well as making deductions for the total loss and Mr K's policy excess of £725, Marshmallow also deducted £764, which was the amount owing on his premium for the rest of the year. As I've already said this is something that

Mr K's policy allows Marshmallow to do. So I don't think it did so unfairly, although I think it could have been clearer with him at the outset that it would do so.

In other circumstances it would generally be the case that, as long as he added another car to the policy within 30 days then the cover would transfer to the new car, subject to any difference in premium the new car presented. In that respect Mr K could have expected to benefit from the cover the policy provided for its remaining term.

But, crucially, Mr K's policy says that this is only possible where the new car is one that "*would normally be acceptable to us*". In this case, after Mr K tried to add a new car to the policy Marshmallow told him it wasn't one that it would agree to cover. As such he couldn't have the benefit of the remaining term of the policy.

I can understand that this was extremely unfortunate for Mr K but I don't find it unfair. I'll explain that the new car Mr K wanted to add to the policy had been converted to run on LPG. That conversion took it outside of the risk profile of the cars Marshmallow was prepared to cover. That's a decision Marshmallow was entitled to come to.

That's because when considering whether to offer a policy and if so how much to charge for it, an insurer will consider numerous different factors. And key amongst those factors for motor insurers is whether or not certain cars, or certain types of modifications to cars, are within the insurers' acceptable risk tolerance. That is whether those are cars that the insurer will agree to cover. And it's often the case that insurers will refuse to cover certain types of cars or modifications. That's a matter for an insurer's commercial judgment so it's not something we would think it was fair to interfere with.

That's what happened in this case. Mr K's new car was simply one that fell outside of Marshmallow's risk tolerance. That is it was one it was not happy to accept the risk on and insure. So it wouldn't let Mr K add it to the policy. I'm aware that this was inconvenient and expensive for Mr K. But I don't think that means it refused to add the car to the policy unfairly.

Mr K's said that the policy doesn't explain that this sort of car wouldn't be acceptable to it. But I wouldn't expect it to. An insurer's underwriting criteria – which are the rules they follow when deciding whether to offer cover to individuals – are generally commercially sensitive. So I wouldn't expect an insurer to publish this information in its policies. Additionally, given the numerous makes of car or types of modification that may fall outside of an insurer's risk tolerance it wouldn't be practical for an insurer to list each of those in a policy document.

In those circumstances, as Mr K didn't have an "acceptable" car to add to the policy, in line with its terms and conditions, Marshmallow was entitled to deduct the outstanding premium from his claim settlement without extending the cover to another car.

### *Compensation*

When it eventually responded to Mr K's complaint Marshmallow acknowledged it had made a number of errors. Amongst other things it accepted it had incorrectly told him it wouldn't provide a courtesy car. It also accepted that it could have been clearer about a number of issues, including the deductions it intended to make from its claim settlement. In recognition of the impact of these things it offered Mr K £325 compensation. I understand he rejected that offer as he didn't think it was reflective of the impact Marshmallow's handling of things had on him and in particular his mental health.

I don't wish to downplay how difficult Mr K found dealing with Marshmallow. But for the reasons given above I haven't found that it acted unfairly or unreasonably in relation to many of the situations that Mr K found inherently stressful. For example, as I've said above, I think it valued his car fairly and was entitled to refuse to add his new car to the policy.

So, while Marshmallow has accepted that it didn't get everything right, I think its compensation offer of £325 is reasonable in the circumstances. I think that figure fairly

recognises the considerable distress, upset and inconvenience it caused Mr K which required a lot of extra effort to sort out. And that this process spanned many weeks.

### **Putting things right**

Assuming Mr K accepts my final decision, unless it has already done so Marshmallow should pay him the £325 compensation it offered to him when responding to his complaint on 13 July 2025.

Additionally it should pay him an additional £60 in settlement of his claim for the total loss of his car. It should add simple interest to that sum at a rate of 8% a year from the date it initially settled the claim to the date it makes payment to him<sup>1</sup>.

### **My final decision**

For the reasons given above I require Marshmallow Insurance Limited to take the steps set out above under the heading 'putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 25 February 2026.

Joe Scott  
**Ombudsman**

---

<sup>1</sup> If Marshmallow considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr K how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.