

## **Complaint**

Mr M is unhappy with the progress of his claim, and the subsequent decision not to pay for repairs, on his car insurance policy with U K Insurance Limited ("UKI"), following an accident.

Any reference to UKI in this decision includes its agents.

## **Background**

I issued a provisional decision in January 2021 concluding that Mr M's complaint should be upheld in part. I also set out what UKI should do to put things right. I attach a redacted version of my provisional decision which forms part of this final decision.

I invited further comments from both parties before I reconsidered the complaint for a final time. Mr M accepted my provisional decision. UKI didn't respond.

## **My findings**

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've reached the same overall conclusions as set out in my provisional decision for the same reasons.

## **My final decision**

My final decision is that Mr M's complaint should be upheld. In full and final settlement of it, I require U K Insurance Limited to:

- (a) assess whether Mr M has a valid claim for accommodation and hire car costs, and if he has a valid claim pay this in line with the policy terms;
- (b) add 8% simple interest\* to the above from the date he paid for them until the date of settlement;
- (c) pay the sum of £2,000 minus any applicable excesses in line with the policy terms;
- (d) add 8%\* simple interest to the above from 30 September 2018 to the date of settlement; and
- (e) pay Mr M £400 to recognise the trouble and upset caused.

\*If U K Insurance Limited considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr M how much it has taken off. It should also give Mr M a certificate showing this if he asks for one, so he can claim the tax from HM Revenue & Customs.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 March 2021.

Michael Fisher  
**ombudsman**

## **My provisional decision**

### **Complaint**

Mr M is unhappy with the progress of a claim, and the subsequent decision not to pay for repairs, on his car insurance policy with U K Insurance Limited ("UKI"), following an accident.

Any reference to UKI in this decision includes its agents.

### **Background**

In July 2018 Mr M's was involved in a car accident. The accident took place in France and there were no other vehicles involved.

Mr M made a claim under his car insurance policy. UKI arranged and carried out an inspection of the car when it was at a French garage. Mr M says that the person who carried out the inspection was made aware, by the French garage, that they were going to carry out the necessary repairs to the car by using second hand parts to keep the cost down. Mr M says he didn't hear anything further from UKI so, after the necessary repairs had been completed, he drove his vehicle back to the UK.

On his return from the UK Mr M continued with his claim and wanted to be reimbursed the amount he had paid for the repairs, accommodation costs and a hire car whilst he was in France. In total he was claiming for around £7,000.

UKI arranged for an engineer to inspect Mr M's car when it was back in the UK. This inspection highlighted that the repairs that had been completed weren't of a satisfactory quality and, due to the extent of the damage, there were still some structural issues with the car.

Unhappy with the progress of his claim, Mr M complained to UKI in October 2018. UKI agreed that there had been some delays in the handling of the claim and paid him £100 to recognise this.

Mr M referred his complaint to this service in March 2019 as he said he'd had no further update on his claim and it had still not been resolved.

One of our investigators looked into what had happened. She thought that UKI had handled Mr M's claim in line with his policy and that he shouldn't have had any repairs carried out without confirming these with UKI. UKI told our investigator that, based on the engineer's report, the car was a Category B total loss.

In response to our investigators view Mr M said that he'd never been made aware that his vehicle had been deemed a total loss and had been driving his vehicle since his return to the UK. He said he'd had the repairs carried out on his car as the French garage had made the person carrying out the inspection aware of the plans to repair the car using second hand parts.

As an agreement couldn't be reached, the complaint has been passed to me to review.

I've noted that during the course of our investigation UKI reinsured Mr M's vehicle on a new policy. This was looked into as a separate complaint so won't form part of this decision.

### **My first provisional decision**

I had previously issued a provisional decision. A copy of my provisional decision is attached to this decision. In brief, my provisional findings were:

- I was satisfied that UKI had dealt with Mr M's claim for the repairs in line with his policy terms.
- I wasn't persuaded that UKI had assessed Mr M's claim for accommodation and hire car costs in line with his policy.
- I wasn't satisfied that UKI had told Mr M that his vehicle was a Category B total loss and that overall, Mr M's claim had been poorly handled and still appeared not to have been settled.

On this basis, my provisional conclusion was that the complaint should be upheld. I said I was minded to ask UKI to:

(a) assess whether Mr M has a valid claim for accommodation and hire car costs, and if he has a valid claim pay this in line with the policy terms;

(b) add 8% simple interest\* to the above from the date he paid for them until the date of settlement;

(c) pay the total loss settlement in line with the policy terms;

(d) add 8%\* simple interest to the above from the date of the accident to the date of settlement; and

(e) pay Mr M £400 to recognise the trouble and upset caused.

I invited further comments from both parties before I reconsidered the complaint. Mr M accepted my provisional decision. UKI didn't. In response to the provisional decision UKI provided:

- A statement of truth from the UK engineer who inspected Mr M's car in October 2018. In the statement of truth, the engineer explains that he discussed the outcome of the claim with Mr M and that the repairs that had been carried out were substandard, the car was deemed to be unroadworthy and categorised as a B classification.
- It also said that it had told Mr M at the time he first made his claim what his policy covered him for regarding accommodation and hire car costs. As he had never submitted any costs for these it wasn't fair for me to rule against UKI for something it has never been provided evidence of.

Following UKI's further submissions, I wrote back to it. I explained:

- Following the engineer's statement of truth, I was satisfied that it had told Mr M that his car had been categorised as a B classification and was unroadworthy.
- Although Mr M may not have supplied UKI with his hire car and accommodation costs I still considered it reasonable for his claim for these two costs to be considered in line with his policy terms.
- I remained concerned with the length of time it had taken for UKI to arrange for the UK engineer's visit and whether it was necessary for it to have let Mr M know that his vehicle was unroadworthy. I thought that the French engineer's report contained enough information for an in-house engineer to review and provide an answer to Mr M. From the information that had been provided it appeared that no action was taken regarding the French engineer's report until Mr M called UKI six weeks later, and it was this that prompted UKI to arrange for the UK engineer's visit.

- Although UKI had said that Mr M hadn't continued with the claim I disagreed. On 1 August 2018 Mr M emailed UKI to ask them for assistance following the French engineer's visit he received no response to this email.
- I didn't consider it reasonable that UKI hadn't made an interim payment, whilst the amount to be paid was in dispute, to allow him to replace his car. Instead he had been left in a position where he has continued to drive a car that has been categorised as a B classification and unroadworthy.

In response to my further comments, UKI maintained its position that a further payment for trouble and upset wasn't appropriate. It said Mr M had been made aware in France that his car would be a total loss and that he chose to carry out the repairs and drive back to the UK without engaging with UKI. It said the UK engineers visit was required to consider if the repairs that had been carried out in France had been adequately carried out and they would've been unaware of the extent of the repairs until an inspection had been carried out.

### **My provisional findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

UKI has supplied a statement of truth from the UK engineer. The statement of truth sets out the chronology of the engineer's interactions with UKI and Mr M.

I'm satisfied that the engineer made Mr M aware that his vehicle had been categorised as a B classification and was unroadworthy. This inspection took place on the 26 September 2018 and the engineer has said that on the same day he called UKI to explain his inspection outcome.

On the 12 October 2018, UKI contacted the engineer and explained to him that he should speak to Mr M and discuss a settlement offer. The call with Mr M happened on the 15 October 2018 and the engineer explained UKI's stance on his claim as well as the settlement offer.

The engineer has said at this point Mr M made it clear that he wanted to recover all his outlay, including the costs of the repairs that had been carried out in France.

As set out in my provisional decision, I'm satisfied that at the time Mr M first reported the accident, UKI had made him aware that it was more likely than not that his car would be a total loss and not to arrange for any repairs to be carried out.

Throughout his complaint, Mr M has maintained that he has never been told that his vehicle was a total loss, and it wasn't until our investigator issued their view that he became aware of this. He explained that since the UK engineer's visit he had continued to drive the vehicle for a small number of miles on a weekly basis.

Although I accept that UKI has said that it told Mr M that his vehicle had been categorised as a B classification, they did so after the UK engineer's visit and not the French one. They ought to have provided Mr M with the outcome of the French engineer's inspection. I appreciate UKI have said that the categorisations are not identical however there would be enough information within the French engineer's report for UKI's inhouse engineer to assess from a UK perspective.

I'm not persuaded that Mr M fully understood the extent of what the engineer had told him. I say this because Mr M has continued to drive the car on a weekly basis, using it to drive his children to and from school as well as visiting family in his town. I don't think that these are the actions of someone who has fully understood that his vehicle was unroadworthy. This is supported by Mr M's testimony, when he has explained that he has never received anything in writing from UKI explaining this to him. I've also noted that UKI hasn't provided any evidence of any written correspondence explaining to Mr M it's decision on his car.

So, although UKI is satisfied that it did make Mr M aware of his car's condition, I'm not satisfied that he fully understood its position or the implications of him continuing to use his car.

I've also considered the customer service Mr M received from when he raised his claim. He provided UKI with the details of the garage where his vehicle was held, UKI provided an engineer to carry out an assessment but then they made no further contact with Mr M even when he asked them for assistance. On 1 August Mr M emailed UKI, within the email he asks:

*"I have been told that I need to contact you to find out what is the next step for me to do and to know as I have not a clue on what going on, please can you and I need to let me know are the procedures on having my car fixed and bring my family back home."*

There was no contact from UKI with Mr M from this point until he called them upon his return to the UK to ask for an update on his claim. UKI have said that Mr M's actions are not those they usually see from someone who has had an accident in a foreign country. And they have suggested he didn't continue with his claim. I've not seen any evidence that would suggest to UKI that Mr M was not continuing with his claim.

The French engineer's findings were sent to UKI on the 13 August and a subsequent copy was provided again on the 28 August. There was no communication between UKI and Mr M until he called it on the 13 September to ask for help with which claim forms he needed to complete.

In its submissions to this service UKI said "When a car is damaged abroad, UKI instructs (its foreign agent) to inspect the car and report to UKI. The communication of the inspection outcome is UKI's responsibility. **I can't see this happened.**" My emphasis has been added.

So UKI has identified that it didn't make Mr M aware of the outcome of the French engineer's inspection and so he wasn't aware of its total loss status until 15 October 2018, no further action was taken on his claim until he contacted it some 6 weeks after the initial inspection had taken place. I have seen no evidence to explain to me why this delay occurred and UKI has already accepted that it delayed the progress of Mr M's claim and paid him £100 to recognise this.

UKI has said that it couldn't tell Mr M the outcome of his claim until the UK engineer had inspected his car to see if the repairs had been carried out to a satisfactory standard and meant that his car was still roadworthy.

I'm not persuaded by this. Whilst I understand that UKI will have wanted to assess the quality of the repair work to Mr M's car once they were made aware he was back in the UK having had repairs carried out to his vehicle, they ought to have progressed his claim as soon as the French engineer's report had been received on 13 August 2018.

UKI received an email from its agent in France setting out that Mr M's car had been deemed an "economical TOTAL LOSS". So, it knew at this point that the maximum it would pay Mr M, in line with the policy terms, would have been the pre-accident value of the car, minus his policy excess. And as the email from UKI mentioned above shows, UKI failed to do this until the UK engineer had inspected his car nearly two months later.

UKI has said that it hadn't received any further correspondence from Mr M after the UK engineer's visit. Therefore, no further action has been taken on his claim and Mr M was able to reinsure his car with another insurance provider, underwritten by UKI.

I don't consider it reasonable for UKI not to have taken any further action on Mr M's claim. As mentioned above, Mr M has continued to drive a car that is considered unroadworthy and has also been placed in a position where he has been unable to replace his car.

UKI had enough information on 13 August 2018 to assess Mr M's claim, the ought to have let him know at this point that his vehicle was a total loss and provided him with a valuation offer. Following a request for the documents they require to make payment, a total loss payment should have been made. Had this been done by UKI Mr M would likely have received at least an interim payment by 30 September 2018.

I accept that Mr M is unhappy with, and disputes, the amount that UKI will pay him in relation to his car. He would like it to cover the costs he paid for the repair work in France. As explained in my provisional decision, I'm satisfied that Mr M should not have carried out any repair work to his car prior to approval from UKI and so the most he will receive is the total loss value of the car at the time of his loss, less any applicable deductions.

Mr M's policy sets out that the most UKI will pay is the market value of his vehicle at the time of the loss. As a service we find the market guides the most persuasive evidence of market value and so I consulted three guides, CAP, Glass and Cazana which provided me with the following values, £2,000, £2,320 and £1,626.

UKI's valuation report suggests the valuation offered is £1,250 minus any applicable excess. I don't think this is a fair valuation, so I'm minded to award £2,000 as a fair reflection of the market value of Mr M's vehicle at the date of loss. UKI should deduct any applicable excesses from this amount.

UKI have said there was a deduction to the valuation due to some pre-existing damage to the vehicle, however I haven't been provided with this quantified and based on the photographs within the engineer's report I don't agree any deductions would be fair due to the age of the vehicle.

My view is that UKI could have made an interim payment to Mr M whilst the overall amount to be paid was in dispute. This would have allowed him to potentially make other arrangements or put down a deposit towards a new car, rather than continue to drive a car that had been deemed as unroadworthy.

The fact that this didn't happen would have undoubtedly caused him trouble and upset as well as placing him in an unenviable financial position.

My view of UKI assessing whether Mr M has a valid claim for hire car costs and accommodation costs remains unchanged from my provisional decision. Although Mr M may not have provided UKI with the information it needed to assess whether he has a valid claim for these under his policy, I don't consider it to be unreasonable for it to assess this now subject to Mr M providing it with the information it needs.

In summary, I'm not satisfied that Mr M's claim has been handled well by UKI and its poor claim handling has undoubtedly caused him trouble and upset. In addition to the £100 it has already paid Mr M, I award him an additional £400.

UKI should assess whether Mr M had a valid claim for accommodation and hire car costs in line with his policy terms. If it accepts, he did, it should pay him the amount he is owed plus 8% simple interest from the date he paid for them until the date of settlement.

### **My provisional decision**

Subject to any further submissions I should receive from either party by 14 February 2021, my provisional decision is that this complaint should be upheld in part.

In full and final settlement of it, I'm minded to require U K Insurance Limited to:

(a) assess whether Mr M has a valid claim for accommodation and hire car costs, and if he has a valid claim pay this in line with the policy terms;

(b) add 8% simple interest\* to the above from the date he paid for them until the date of settlement;

(c) pay the sum of £2,000 minus any applicable excesses in line with the policy terms;

(d) add 8%\* simple interest to the above from 30 September 2018 to the date of settlement; and

(e) pay Mr M £400 to recognise the trouble and upset caused.

\*If U K Insurance Limited considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr M how much it has taken off. It should also give Mr M a certificate showing this if he asks for one, so he can claim the tax from HM Revenue & Customs.

Michael Fisher  
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