

complaint

Mr T has complained about Markerstudy Insurance Company Limited's service after he claimed on his motor insurance policy.

Reference to Markerstudy includes its agents.

background

Mr T's car hit another while in a car park. He asked Markerstudy to repair the damage to his car. Mr T was very unhappy with Markerstudy's service. He said there were delays in collecting and repairing his car and when he got it back he wasn't happy with the quality of the repairs. He also said that there was damage to other parts of the car that hadn't been there before he put it in for repair.

Markerstudy acknowledged that there had been some delays, so it offered Mr T £100 compensation. But otherwise it thought it had dealt with the claim reasonably. Mr T didn't agree and brought his complaint to us.

I issued a provisional decision on 25 March 2020. For ease I've copied my provisional findings below. I said:

"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, it's likely I'll partly uphold it.

I've seen that there was a considerable delay between Mr T contacting Markerstudy and his car being collected. But the garage Markerstudy appointed have evidence that they tried to contact Mr T 14 times in a two week period to arrange that. Mr T says that he has no record of any missed calls. But the garage had the right phone number and it's shown us evidence of its attempts to contact Mr T, so it's not clear why Mr T has no record of those calls. But given there's evidence of the garage trying to contact Mr T I don't think any initial delay is because of the garage's actions.

There was then a further delay after what appears to have been some miscommunication. According to Mr T the garage told him he didn't need to be there when it inspected his car at his home address. But the garage then rang him to say that they needed to get into the car but as they didn't have the keys they couldn't do so. So they asked Mr T to take some photos of the car including its mileage, which caused a further delay.

Having provided those photos there was then another delay of around two weeks until the garage collected the car. Markerstudy's told us that delay was because it was waiting for a courtesy car to be available. But Mr T had told Markerstudy when he first reported the accident that he wasn't comfortable driving the car and in fact had arranged for it to be recovered himself. So Mr T was effectively without a working car at that point anyway. So delaying collecting his car because a courtesy car wasn't available was simply slowing down starting the repairs. But, in any event, Markerstudy acknowledged that it had added to delays and it offered Mr T £100 compensation.

Repairs then took the garage longer than expected as, when it did a geometry check, it found there was suspension damage and the garage needed to order parts, causing an extended delay. I can understand that Mr T found this frustrating. But I think that there was little Markerstudy could have done. It couldn't return the car to Mr T if it knew it wasn't safe to be put back on the road. And the parts had to be ordered; so the garage couldn't do the work

straightaway. It's also worth noting that Mr T had a courtesy car at that point so while he would have preferred to have his own car back he did have a car to get around in

When the car was eventually returned to Mr T he was unhappy with the quality of repairs and he said that there had been additional damage done to it entirely unrelated to the accident. For example, although the accident damaged the front end of his car he said that that there were now problems with the rear fender and tailgate and he said a plastic switch inside the car had been snapped off.

I don't think Markerstudy ever addressed Mr T's complaints about the new damage to his car. It did pass Mr T's email in which he set out his unhappiness with the car to the garage but they didn't comment on the "new" damage either. I think that was a mistake. I think Markerstudy should have asked the garage for its comments. I can't see that it ever did that. Given the considerable passage of time since the events complained about, I don't think there's any value in doing that now. And, I think it's likely that if it had asked the garage for their comments they would have said they weren't responsible for the damage to the back of the car. I've seen some images of the car taken before it went in for repair. But those aren't clear enough to show whether or not there was damage to the rear of the car at the time. And Mr T no longer has any images of the car after it came back from the garage. So I don't have enough evidence to say with any certainty that the garage caused damage to the car's rear. But I do find it disappointing that Markerstudy didn't address the matter head on when Mr T made his complaint.

After Mr T complained Markerstudy offered to have the garage take a look at Mr T's car again. I can understand why, given the delays and his unhappiness with the quality of repairs, Mr T was reluctant to let the garage have his car again. But I think that would have been the ideal opportunity for Mr T to discuss with the garage exactly what he thought was wrong with the repairs and for the garage to be clear about what they thought they were or weren't responsible for, including the damage to the rear of the car. And generally I think it's fair for an insurer's garage to be given the opportunity to put right any substandard repairs in the first case, although I do understand why Mr T was reluctant to do this.

To try and sort matters out our investigator recommended that Markerstudy appoint an independent engineer to examine the car and to decide whether the repair work was or wasn't up to standard. And, if the independent engineer agreed that extra work was needed Markerstudy should pay for that. Markerstudy agreed to that proposal and suggested an independent engineering firm to do the work. But Mr T was concerned that the firm Markerstudy suggested might not be truly independent and asked if he could instruct an engineer himself. Markerstudy agreed but there was a delay in Mr T's engineer looking at the car. And, with the benefit of hindsight, I think it would have been helpful if Markerstudy had been clear about what sort of information it would need from the engineer. And Markerstudy should have provided Mr T with the images its garage had taken of his car together with its estimate and report of the work it had done. That would have allowed an independent engineer to see exactly what work had been carried out and to establish if it had been done to the appropriate standard.

Instead when the engineer Mr T instructed did produce his findings he simply provided a list of work the car required. He didn't include any images of the car. And his findings didn't say anything about whether or not the required work was related to the accident or the previous repairs or if the work was simply needed because of general wear and tear. Mr T said he only asked the engineer to comment on the previous repairs. That might be the case but some of the parts listed were unrelated to the areas of damage. The engineer's information lacks detail, analysis, and images, which most independent engineers would know is required in such reports. So, I don't think it was of any real use in assessing whether or not Markerstudy's repairs were up to the required standard or not and if they weren't why not.

Additionally there are further anomalies with the engineering evidence Mr T supplied. Mr T provided an invoice for work he had done on the car to get it through its MOT around six weeks before his engineer produced his findings. But Mr T's engineer's findings lists the work that the car apparently still required and that includes work already done by the garage to put the car through its MOT six weeks earlier. For example, under a heading of replace it said:

*n/s/f [near side front] suspension arm
n/s/f [near side front]] shock absorber
alternator drive belt
power steering drive belt.*

But all these items appeared on the invoice for the work Mr T had already had done to the car in order to pass the MOT. So Mr T's engineer who listed that those items needed replacing couldn't possibly have known that they needed replacing because of anything Markerstudy's garage had done, because all the parts had already been replaced. And it's surprising that Mr T's engineer said those items needed replacing given they had recently been replaced, which he should have known had he examined those parts. Also I've noticed that the invoice from the garage for the MOT work makes a mistake when giving Mr T's car's registration number. And Mr T's engineer, when producing his list some six weeks later, makes the same error with the registration number. I think that's most likely to have happened if the engineer simply copied the information from the MOT invoice across to his findings. So in those circumstances I don't find Mr T's engineer's list reliable.

Further it's clear that Mr T had to have work done to his car to put it through an MOT. But that was around a year after Markerstudy had repaired the car. I've also noted that, a year earlier, as soon as he'd collected the car from Markerstudy's garage Mr T had to have his car MOT'd. At that time, while his car passed its MOT, it did so with an advisory – in other words a warning - that its nearside front suspension wasn't operating as it should. And by the time of his next MOT, a year later, that area of the car now needed work doing on it in order to pass the MOT. So it appears that the wear to the nearside front suspension had got worse in the year since the previous MOT and with the car having travelled a further 8,000 miles. I also think it's notable that the parts Mr T's engineer said needed replacing are on the other side of the car to the area of impact when he had the accident. And I'm aware that Mr T damaged his car while manoeuvring it in a car park and that this was at low speed. So I find it extremely unlikely, from a lay perspective, that Mr T's accident caused damage to the other side of his car particularly to its suspension by bumping it in a car park. Similarly, I know that the two belts that Mr T had replaced are situated between the engine and the radiator on the car. This wasn't an area of damage caused by the accident. So I find it unlikely, on balance, that those parts needed replacing because of the incident in the car park.

After we initially forwarded Mr T's engineering evidence on to Markerstudy it wanted to instruct an engineer to inspect the car itself. Given the evidence Mr T supplied wasn't useful; I can see why it would have wanted to do that. But, because of a delay at our end - for which I offer my apologies to those our service have already provided - by the time Markerstudy got round to doing so, Mr T had already part exchanged his car, so it was no longer available for inspection. And it's certainly possible that a second engineer's report might have identified other issues that were related to the accident and repair. For example sometimes paintwork requires further blending. But because Mr T had already sold the car I don't know whether that's the case.

Mr T thinks that, because the car wasn't up to the condition that it was in before the accident, he received less in value when he part exchanged it. But I'm not persuaded that's the case. The dealer that bought Mr T's car paid him £4,800 for it. Mr T thinks it was worth considerably more than that and he believes he could have received at least £8,000 for it had it been in good condition and he'd sold it privately. We don't know what Mr T would have got for his car had he sold it privately. But I think it's worth noting that Mr T had finance outstanding on the car. So selling it privately might not have been as easy a prospect as Mr T believes, as the credit provider might have insisted that Mr T settle any outstanding finance before he sold the car. And I'm aware that cars with outstanding finance on them are difficult to sell privately, as technically they still belong to the finance company and not the car's registered keeper.

But, in any event, I've looked at whether there's any convincing evidence that the dealer that did the part exchange deal with Mr T paid him less because of the previous repairs. The dealer gave Mr T £4,800 for his car noting that it was in a good condition and without a service history. That amount is in line with the trade value of the car as given in the industry accepted trade guides. We made enquiries of the dealer and it confirmed that the highest rating it gives cars it's considering buying as a trade-in deal is "excellent". But it told us that to meet that criterion the car would most likely be quite new, with no damage and a full service history. But Mr T's car had paint chip damage before it was repaired, it was around nine years old when he traded it in and it didn't have a full service history. So I don't think the dealer would have classed it as excellent even before the accident.

Also the dealer explained to us that how much it offers as a trade-in price can depend on how much the car being bought is worth. So if Mr T had bought a more expensive replacement car then it's likely the dealer would have offered him more for his own car. But in any event given that the dealer rated Mr T's car as being in good condition it doesn't appear that the dealer was overly concerned by any defects still present from the previous repairs, if indeed those defects existed. So I'm not persuaded that Mr T lost out on his trade-in price because any remedial work following the repairs was outstanding.

Mr T's recently told us that if it hadn't been for the post repair issues with the car he'd have probably kept it. But that's out of step with what he told us while we were looking into his complaint. At one point he'd told us that he intended to give the car back before the halfway point of the finance. Indeed he told us he "desperately" needed "something more suitable" because he now had a baby. And that was why he'd part exchanged the car. So I'm not persuaded that Mr T would have kept the car but for the issues with the repairs.

provisional conclusion

For the reasons give above, I don't think it's fair to conclude that Mr T received less for his car when he sold it than he otherwise might have done. I've considered whether further engineering evidence could assist with that. As it might have been possible to ask an independent engineer to do a desktop assessment. But as there is an absence of images with which an engineer could make a reasonable assessment, I don't think that's appropriate now.

That said I think there's much more that Markerstudy could have done to make Mr T's journey to this point smoother. It has previously agreed to cover the cost of a replacement tyre, which I think is fair. But I think there were delays and miscommunication at the outset. And I don't think it ever appropriately addressed Mr T's complaint that his car came back from the garage with damage that hadn't been there before. That omission has left Mr T convinced that he's now thousands of pounds out of pocket. While I'm not persuaded that's the case I do understand that not fully addressing Mr T's complaint at the outset had been a

source of distress and inconvenience for him. To address that I think Markerstudy should pay Mr T a further £400 compensation.”

Markerstudy accepted my provisional decision and Mr T said he had no further comments to make.

my findings

I've again 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 going to partly uphold it.

As neither Mr T nor Markerstudy objected to my provisional decision I see no reason to change it.

my final decision

For the reasons set out above, I'm partly upholding this complaint. I require Markerstudy Insurance Company Limited to:

- reimburse Mr T for the cost of a replacement tyre.
- pay Mr T a further £400 compensation to address his distress and inconvenience. It should pay the compensation within 28 days of us telling it that Mr T has accepted my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a rate of 8% a year simple.¹

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 16 May 2020.

Joe Scott
ombudsman

¹ If Markerstudy pays interest and considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr T how much it's taken off. It should also give Mr T a certificate showing this if he asks for one, so he can reclaim the tax from HMRC if appropriate.