

complaint

Mr B has complained about Admiral Insurance Company Limited's handling of a claim on his motor insurance policy.

Reference to Admiral includes its agents.

background

Mr B owns two high powered luxury sports cars of different makes, the cars could reasonably be described as "supercars". I will refer to the cars as F and L.

Mr B insured both cars with Admiral. The cars were significantly damaged in a malicious attack (the attack) - using a chemical substance - in June 2017. Mr B claimed on his policies. Admiral investigated Mr B's claims. Mr B was unhappy with Admiral's progress. He brought his complaint about that to us.

We set up two different complaints, one for each car and a third complaint about certain specific issues concerning Admiral's service. In this decision I will focus on Mr B's claim for the damage to F. I have already issued separate decisions regarding Mr B's other complaints.

One of our investigators looked into Mr B's complaints. While she was doing so Admiral accepted it should settle Mr B's claims. It initially said F was a total loss. But our involvement in the complaint didn't end there. Instead the complaint has evolved to incorporate many other points including, amongst other things: Admiral's service, whether or not F was a total loss, further damage caused to F by Admiral, non-provision of a courtesy car and other aspects of Admiral's service. One of my ombudsman colleagues looked into the complaint. But as he wasn't in a position to issue a final decision it was passed to me to decide.

I issued a provisional decision on 2 February 2021. 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.

Mr B's claim and complaint has been ongoing for over three and a half years. During that period there have been a number of developments which have given rise to further actions, comments, concerns and complaints. As a result, our file(s) run to thousands of pages. And while I've considered everything that's before me, in this provisional decision I don't intend to address each and every event or issue raised. Instead I will focus on what I see as being the key issues at the heart of Mr B's complaint that still require my attention.

I'd like to start by repeating an apology - which I included in my decision for L - for the time it's taken us to review this complaint. While our ability to complete our review has been significantly affected by the pandemic, I can see that the additional time taken has been particularly frustrating for Mr B and I'm sorry about that.

After the attack Admiral instructed a firm of engineers, who I'll refer to as B, to assess F. B valued it at £74,250 and said the costs of repairs to it were around £27,880. Admiral

instructed a second engineering firm, which I'll refer to as G, to carry out a further, in depth, report into the condition of the car,

G's engineer said F was in a poor condition with some previous issues to its bodywork. He said a key problem with the car was that its gearbox wasn't fully operating causing a traction control light to display. He estimated the cost of repairing the damage to F as being over £33,000 (including VAT). He said the car's pre-incident market value was £25,800 and as such it wasn't economical to repair. So he said it was a total loss.

Mr B disagreed with G's engineer's conclusions. Mr B said there was nothing wrong with F's gearbox or traction control and instructed another engineering firm, who I'll call E, to assess his car. E's engineer agreed that the car's gearbox and traction control were working appropriately. G's engineer assessed the car again in Mr B's presence. And at that point it became apparent to Mr B that G's engineer wasn't familiar with the sort of gearbox F was equipped with, which is why he'd previously concluded it wasn't working properly. G's engineer agreed the gearbox was working but suggested Mr B had done further work to it. But he said that, as the gearbox was now working, he valued the car at £55,800.

I accept Mr B's evidence that he hadn't had the gearbox repaired before G's second inspection. And it seems likely that the issue with the gearbox was either because G's engineer was unfamiliar with it or might have been caused by Admiral's agents jump starting the car, which I understand can be a known cause of gearbox faults in such cars. But, in any event, as the gearbox was working that meant the car wasn't uneconomical to repair and so wasn't a total loss. And so, at that point, Admiral should have decided how it wished to settle the claim.

Mr B's policy says that in the event his car is damaged and in need of repair Admiral may either arrange repairs or offer a CIL settlement to cover the cost of repair. So it should have chosen one of those options once it became clear that the gearbox wasn't in need of repair. But it didn't do that. And as a result, Mr B's car has remained unrepaired ever since. I don't think that was fair.

In order to put things right I think Admiral should remove F's total loss marker from any internal and external databases. It should make clear when taking action to remove the marker from external databases, that the marker was initially placed on F in error, so it shouldn't show on the car's history. It should also either:

- Arrange for the appropriate repairs to be done to Mr B's car for the damage caused in the attack by its approved repairers. If it does so, in line with Mr B's policy terms Mr B will be entitled to a courtesy car for the duration of those repairs.*
- Make a CIL settlement equivalent to the cost of repairs at its approved repairers. I'm aware that some significant time has elapsed since the attack. And it's likely that in that period the costs for parts and labour have increased. So if Mr B and Admiral do agree on a CIL settlement, Admiral should base that sum on the costs to repair the car at the time of the settlement, rather than when the car was initially assessed. That costing should include the price of recovery from and redelivery of the car to Mr B.*

I should be clear that under the terms of the policy it's for Admiral to decide how it wishes to settle the claim. But owing to the long-running nature of this dispute and the number of Mr B's comments and concerns as matters have progressed, I think it would be fair for Admiral to offer a CIL as an alternative to using its approved repairer.

Mr B has said that, if a CIL is agreed, Admiral should add a reserve sum to its settlement to cover any costs for additional damage discovered during the repair process. However, I don't think that's fair, as disputes could arise about whether or not the damage was related to the attack or not, and instead the engineers costing the work should factor in all the likely damage when arriving at that costing. And, unless Mr B is happy to accept a costing provided by Admiral's approved repairers, those costs should be agreed by an independent engineer (other than G).

As indicated above, Mr B has previously engaged the services of E, and E is on Admiral's panel of engineering firms. So, it would seem that both Admiral and Mr B trust E's opinion. And in those circumstances it would seem reasonable - if E is available and accepts the work required to bring Mr B's claim to a conclusion, as set out in my decision - for Admiral to instruct it to do the necessary work. However, if E isn't available than Admiral and Mr B should agree on the engineering firm to do the required assessments. And both parties should agree to abide by the independent engineer's conclusion. Admiral should cover the independent engineer's fees.

Further, Mr B incurred his own costs from E in order to successfully challenge Admiral's conclusions that F was a total loss. So I think it's fair that Admiral reimburses Mr B for the costs of that engineer's report. It should add simple interest to that settlement at a rate of 8% from the date Mr B paid it to the date it reimburses him.

additional damage to F

Mr B's complained that while F's been in the care of Admiral's agents it's suffered considerable additional damage unrelated to the attack or its condition before then. And, understandably, he thinks Admiral should put those issues right or pay him a sum equivalent to the costs of the further repairs required. I'm aware that there are numerous points that Mr F has made about additional damage to his car, but I don't intend to address each and every point that's been made and instead will focus on those which appear to remain contested.

In particular Mr F's said his car suffered from damage caused by water getting into it while it was with Admiral's agents. I think it's noteworthy that Mr B stored F in a garage at his home whereas Admiral's agents stored it outside and exposed to the elements.

I've seen video evidence that when Admiral returned F to Mr B, on a transporter, both passenger and driver windows were partially open, and that would have allowed water into the car. Mr B's explained that, when the door handles are lifted the windows automatically drop a small amount in order to allow the doors to open and close freely. And, when the doors are closed again, the windows will automatically rise to make a watertight seal. But, in order for that to happen, the battery must have enough charge to raise the windows. If the doors are opened when the battery is flat, then the windows will still drop but won't then raise again to make a watertight seal when the doors are closed.

It's notable that on several occasions Admiral's agents have referred to F's battery being flat. So, if Admiral's agents have opened the car doors, while the battery was flat, then the windows would have dropped slightly but not gone back up again. And it seems likely the agents have stored F with the windows partially opened, for at least some of the time it was with them, and that's allowed water into the car. Mr B's also given us a video of F taken

shortly after Admiral returned it to him showing that the carpets and car interior were wet. So, this is evidence of water getting into F while it was in Admiral's care.

In his provisional decision my colleague commented that water could have entered the car through a small tear in the roof or because it didn't fit correctly at one corner. But the tear is only on the roof surface, it doesn't penetrate all the way through, so that wouldn't have allowed water into the car. And Mr B's provided video evidence of the car from the inside (with the windows fully closed) and a hose pipe running water over the roof, which doesn't show any water getting into the car. So I'm satisfied that any issues with the roof didn't cause the water to get into the car. And, in those circumstances I think it's more likely than not that water got into the car through open windows. But even if the water had got in through the roof, had the car been stored inside then that wouldn't have happened. It follows that I think Admiral should be responsible for any damage water might have caused to the car's interior and that should include any mould or damage to the carpet and underlay.

I've seen that engineers from both B and G have commented on water damage to the car. B said that the original engineer who had looked at F had now left, so a second engineer looked at the car. He said he couldn't find any damage caused by water getting in. G said that the only damage was mould or mildew staining to the interior of the car's roof.

Mr B noted that B had asked for the car to be cleaned before B's engineer inspected F a second time. And Mr B thinks that cleaning the car might have removed evidence of water damage. While I think that's unlikely I'm not convinced that B considered Mr B's specific concerns about the car's interior. That's because B's engineer's comments are essentially limited to the bodywork. And I note he didn't appear to comment on the mould to the roof, as G's engineer did.

Mr B's continued to complain of many other areas of damage he holds Admiral responsible for causing. And I've referred to the still contested areas below. Our investigator had previously recommended that Admiral cover the costs of repair to some sagging in the dashboard leather. That was because the sagging is quite noticeable and G didn't comment on it initially, which it seems likely he would have done if it had been there at the outset. So I think it's a reasonable conclusion that this damage happened while F was in Admiral's care and it should pay for the costs of repair to it.

But one of the issues for me now, is that it's very difficult to say what the condition of the car's interior was before it was damaged in the attack. With the exception of one seat, the condition of the interior wasn't something that either B or G's engineers commented on at the time they did their initial inspections. So I'm not convinced they would have noticed individual oil/dirt spots on the carpet or small stains on the leather stitching. I accept that Mr B is adamant that those marks weren't there before. But it seems to me that, having had the car returned to him when it was clearly damp, he's then examined it thoroughly, and it's certainly possible that he's identified areas of concern now that, perhaps, he simply hadn't noticed before. For example, what he's described as shrinkage to the leather on the side of the dash might not have been obvious or in plain sight before the attack. But, possibly, this is instead something he's noticed while looking at any additional damage the car might have suffered while it was in Admiral's care. Also, while the car doesn't appear to have required any significant work on it previously, it will occasionally have had work done in order to get through MOTs etc and, if that's the case, it's certainly possible that oil or dirt has got into it when that work was being undertaken or simply when the car was in use.

The car was 14 years old at the time of the attack, and a car of that age is bound to have experienced some wear and tear. For example, G's engineer commented on his first inspection that the driver's seat was heavily worn. So I think it's unlikely that every other blemish the car's interior now shows happened while in Admiral's care. That said Admiral paid for the car to be valeted but the valetor said that he's been unable to rectify some of the issues the car has. But I can't fairly say, with the information before me, that each and every issue Mr B's pointed to was caused by something Admiral did or didn't do. But, in an attempt to find a resolution to this complaint, I will list the issues Mr B has continued to refer to and set out how I think each issue should be addressed.

roof operation

Mr B said that F's roof was working normally before Admiral took it away but would no longer open or close automatically without some intervention after it was returned. I accept Mr B's evidence that the roof had previously worked. But it's not clear to me why anything Admiral did - or didn't do - to F should stop the roof mechanism from working. G's engineer said that when he inspected the car initially he had no reason to test the roof, so couldn't comment on whether or not it worked previously. And I've noted that the storage yard - where F was stored for some time - said that its policy when receiving convertible cars was to take pictures of the car with both the top up and down. But it only had pictures of F with the roof up, and it said that meant the roof mechanism wasn't working when it first received the car, which was only a matter of months after the attack.

I'm aware Mr B had the roof serviced around two-years before the attack. So he would have expected it still to work. And Mr B's said the recovery company who had collected F and delivered it to the repairers didn't remember the roof not working when it collected the car. But I don't recall seeing anything to say the recovery company tested the roof when it initially collected F. So, I don't find the recovery company's comments that it couldn't recall the roof not working when it collected the car persuasive that it was working at the time it collected it. And given the evidence from the storage yard is it's most likely that the roof wasn't working efficiently when F was delivered to it, only months after the attack, I don't think it's likely that the mechanism would have stopped working because of anything Admiral did or didn't do. So I don't think it needs to be responsible for any repair to the roof mechanism.

front wheel damage

Mr B's provided photos of F's passenger side front wheel which shows some damage to the alloy rim. He said the damage wasn't there before. But I note that, in its second report, G included a photo of the passenger wheel taken at the first inspection in July 2017, which shows damage to the wheel. And while the photo Mr B has provided is far clearer, given that there is some evidence of the wheel having suffered damage previously, I don't think it would be fair to conclude that the damage is new. So I don't think it would be reasonable to instruct Admiral to cover the costs of refurbishing the alloy as Mr B has suggested.

water damage

As I've commented above, I've seen persuasive evidence that water got into F's interior while it was in Admiral's care. So I think Admiral should be responsible for the costs of putting right the extent of any repairs required because of water damage. So, in order to find

out what, if any, remedial action is required I think it's fair for Admiral to pay for an independent engineer to inspect F and detail the extent of any repairs required because of the water ingress to F while it was in Admiral's care. That assessment should include a finding on whether carpets, underlay and electrics have been damaged by any water ingress.

sun visors

Mr B's said that the sun visors have suffered from the same sagging that the dashboard has. Mr B believes that the problem has arisen either when the car was damp or when Admiral's agents cleaned the car, the implication being that the substances used have caused similar damage to F's dash and sun visors. I think this is a point that needs assessment by an independent engineer. If the independent engineer feels that the sun visors have suffered the same damage that the dashboard has, then I think it's reasonable that Admiral takes responsibility for repairing or replacing those. But, if the independent engineer feels that this is simply wear and tear then Admiral need not factor in any repair to the sun visors when settling the claim.

other marks and damage to the car's interior

Admiral has previously paid for the car to be valeted. It seems that the valetor was able to successfully clean the carpet. But he wasn't able to remove all the stains from the car's interior. He said that there are still oil marks on the seats, dash and "door trims". I've addressed some of those points further below. And I note that when G's engineer inspected the car for a second time he said there was a mark on the dash below the steering column and the driver's door card. So it seems likely that these two marks occurred while the car was in Admiral's care and the valetor had been unable to remove them. So I think that Advantage needs to factor in the costs of repairing or replacing these items when it settles Mr B's claim.

Mr B and the valetor also referred to marks on the passenger side door. From the pictures I've seen these seem less obvious than the mark to the driver's door. I note that none of the engineers that have looked at the car have commented on them. And, as I've said above, I think the car would have had some wear and tear before the car was taken away. And I don't think there's enough evidence to conclude that any marks to the passenger door happened while the car was in Admiral's care. So I don't think it would be fair to instruct Admiral to cover the costs of repairing these marks.

Mr B has provided pictures of a mark to the lower dash trim, which he believed Admiral caused. But from the pictures I've seen I don't think this mark is particularly obvious. So I'm not persuaded that it was more likely than not caused by one of Admiral's agents. So I don't think it would be fair for Admiral to cover any costs involved in repairing that.

door handles

Mr B's said that since Admiral returned the car the internal door handles have "melted". And that the steering cowling has suffered similar damage. He's provided photos and video in support of his comments. I note that the valetor who cleaned the car suggested that a "nasty" chemical had been applied to it. The implication being that when one of Admiral's agents cleaned the car they used a chemical cleaner that wasn't appropriate for the handles and steering cowling.

It's not in dispute that the car was cleaned. And Admiral's agent has confirmed it used a mild acid based chemical in that process. I understand that would be the appropriate substance to use to clean the internal leather. But I don't know if using the same chemical on the door handles and other components would produce the damage Mr B has noticed or if something else entirely has caused that. To address this I think Admiral should ask the independent engineer for a balance of probabilities finding on whether or not these components show damage, beyond the wear and tear that could be expected for a car of this age and mileage or if the damage is consistent with the application of an inappropriate cleaning substance. And if so, as it's likely that damage happened while the car was in Admiral's care, I think it should be responsible for putting it right. In those circumstances it should factor any necessary repairs in when it settles the claim. But, if the independent engineer feels that this damage is simply wear and tear Admiral need not take any further action on these issues.

Similarly, Mr B said the passenger door handle is stuck. But unless that happened because an incorrect chemical was used, I can't say why this would be Admiral's responsibility. Further Mr B said that the passenger door is no longer closing. I don't think Admiral has done any work on the passenger door. And in the video of F being delivered back to Mr B he opens and closes the passenger door freely. So, I don't think it's fair to attribute any issue with the passenger door no longer closing to the actions of Admiral.

seats

Mr B and the valetor have both commented on marks to the seats. But it's clear from the photos of the car when G first inspected it that the driver's seat was fairly heavily marked to begin with. So I don't think it would be fair for Admiral to cover the costs of repair or replacement of the driver's seat.

I think it's likely that the passenger seat would have suffered some wear and tear previously, although it clearly was in a better condition than the driver's seat. But that doesn't automatically mean that Admiral hasn't made the condition of the seat considerably worse. But, from the evidence I have, I can't now fairly determine exactly what, if any, further damage has been caused to that seat. In order to address this I think the independent engineer should examine the passenger seat to establish if any marks to it are beyond what could be expected for a car of that age and mileage. And if the conclusion is that the marks to it are excessive, given that the car would have had some wear in the first place, I think Admiral should be responsible for covering half of the costs of cleaning, repairing or replacing it as necessary.

Mr B has added that the head rests for both seats are similarly now smeared with oil. But, again, it's difficult for me to determine the condition of the head rests before the car was in Admiral's care. So as with the seats, I can't now fairly say, what, if any additional damage has been done to the head rests while in Admiral's care. But I can't rule out the possibility that some damage has been done. So, if the independent engineer agrees that the head rests have been "smeared with oil", then I think it would be fair for Admiral to be responsible for covering half of the costs of cleaning, repairing or replacing those as required. However, if the independent engineer believes that any marks or damage to the headrest are consistent with normal wear and tear then Admiral need not factor this in when settling Mr B's claim.

centre rear dash section between the seats

Mr B's given us some photos which show that the leather on this section of the car has some marks to it. But I can't see why any of Admiral's agents would have needed to access that part of the car. So I think it's unlikely that any marks to that part of the car were caused by Admiral. And I note that area of the car would seem to be out of the plain line of sight. So it's possible the marks have existed for some time but Mr B hasn't noticed them. And in those circumstances I don't think Admiral needs to take any further action in this regard.

seatbelts

Mr B said that the water damage had caused mould to grow on the seatbelts. And the valetor said he was unable to remove this mould. Mr B provided us with photos and a video which, he says, shows the mould. But it wasn't obvious from the quality of the video that the seatbelts were still affected by mould. But if they are then I think that's likely to have happened when the car became damp while in Admiral's care. So in order to address this I think it's fair for an independent engineer to inspect the seatbelts. And if the engineer's conclusion is that the seatbelts are mouldy and need to be repaired or replaced, and given that these aren't generally high wear items, then Admiral should factor the full costs of that when settling the claim.

underneath the front bumper

When G's engineer first inspected F he commented on some damage, most likely caused by potholes, to the underneath of the front bumper. But Mr B says that there is now further damage, which was most likely caused when Admiral's agents used a forklift truck to lift F onto a wagon to transport it. G's engineer has noted during his second inspection that the damage to the underside of the bumper had become worse since his first inspection. It appears that the bumper might have required repair as a result of the attack and if that's the case then Admiral should simply cover the costs as part of the claim. But, even if that's not the case, given that Admiral has clearly made some pre-existing damage worse I think it should be responsible for the cost of repairs.

rear chassis/sub frame

Mr B's said that, with the help of some travel ramps, he's seen that when the car was lifted by a forklift it has caused other damage to the underside of the car. He said the car now has dents and cracks along with damage to the plastic underbody cover. And he's provided photographs to support that. I don't have the expertise to say whether or not the damage Mr B refers to was caused by using a forklift to raise the car. So, in order to address this, I think this is something that an independent engineer should make a finding on. And if the engineer concludes that the forklift has caused additional damage then this is something Admiral needs to take responsibility for and it would need to factor the repairs required in when settling Mr B's claim.

paint damage to rear panel

Mr B's given us a video which clearly shows damage to F's top rear panel. In G's second inspection its engineer agreed the paint was scuffed but he didn't know if the damage was there during his first inspection. He added that there were signs of a previous poor repair to the area which, if it had been completed properly wouldn't have scuffed.

In contrast Mr B said he's not aware of any previous repair to that part of the car. And he's offered an explanation for how he believed the damage happened. He said Admiral's agents

had previously told him that they couldn't get F to start because a sensor was showing than issue with the boot lid. So they cleaned the sensor which allowed the boot to close. But Mr B believes that in taking that action, which would require removing the boot lid sensor from the boot latch - Admiral's agents has altered the position of the latch and that's caused the boot lid to catch the car while closing, causing the damage. Mr B's shown in his video how that most likely happened. And I find his evidence persuasive. I note G's engineer has suggested that this wouldn't have happened if it wasn't for a poor earlier repair. But, while I can't say whether or not that's the case, I'm persuaded that Admiral did cause damage to an area that was previously undamaged. So, in those circumstances, it should be responsible for having the area repaired.

boot sensors

Mr B's added that Admiral's agents damaged the boot sensors when cleaning them. There's evidence on file that Admiral's agents did clean the boot sensors and if they damaged those while doing so I think it's fair for Admiral to cover the costs of repair. To address this point I think it's fair that an independent engineer examines the boots sensors. And if the conclusion is that the sensors are damaged then Admiral should factor in the cost of repairing them when settling the claim.

potential damage caused to F's electrics by jump starting

There is evidence on file that, more than once, as F's battery was flat it was "jump started" in order to get it running. Mr B's provided us with copies of various online articles which show that jump starting a car like F can cause damage to it. And E's engineer noted in his report that jump starting the car had probably caused an issue with the gearbox/traction control initially. I don't currently have any evidence that F has suffered any lasting damage as a result of it being jump started. But given that jump starting F could, potentially, have caused damage to it I can understand Mr B's concern. So, in order to fairly address this issue, I think an independent engineer should make a finding on whether any such damage has occurred because the car has been jump started. And if the engineer concludes it has then Admiral should factor in the costs of repair when settling the claim.

tyres

Mr B said that as the car hasn't been used for such a long period the tyres might be damaged. I think this is a further point that the independent engineer needs to make a finding on. If the conclusion is the tyres are safe then Admiral doesn't need to address this point. But, if the engineer concludes they are no longer safe, because of the delays in sorting out the repairs, then Admiral would need to factor the costs for replacement tyres when settling the claim.

gap in service history

Mr B told us that prior to making this claim, while occasionally his car was off the road it didn't have a MOT, but it had a full service history. And because of the issues with this claim it no longer has that full service history. He said that would affect the car's value should he wish to sell it. A full service history will generally help to maintain a higher value for a car. So it's possible that, if Mr B chooses to sell F then its value could be less because of the gap in its service history. But how much that loss would be would only be known at the date of sale. So Mr B would only suffer a loss if he actually sells the car. And unless Mr B sells the car immediately he won't have suffered a loss. And the actual amount that the service history

would affect the sale price will change over time. So I can't fairly say how much this has affected Mr B. But I will consider it when I think about compensation for Mr B's distress and inconvenience because of Admiral's handling of the claim.

courtesy car

Mr B's policy says Admiral will provide him with a courtesy car while his car is being repaired by one of its approved repairers. But, as G found that F was a total loss, F wasn't ever being repaired by one of Admiral's approved repairers. So Admiral didn't ever offer Mr B a courtesy car even though he asked for one. As I've said above, G's engineer's conclusion that F was a total loss was wrong. So, Admiral should have given Mr B the option of asking one of its approved repairers to fix it. And, in those circumstances Mr B's policy would have entitled him to a courtesy car.

Mr B said that he's significantly out of pocket because he didn't have access to a courtesy car. At the time of the attack F was declared off road and wasn't taxed. And Mr B said that at that time he did have the use of another car. But he said he'd always planned to replace the other car and use F as his day-to-day car. And, because he didn't have a courtesy car he initially used his work van for transport, until he found out that he wasn't insured on that for social use. And to fill the gap he bought another car for daily use. He said he wouldn't have had to do that if he'd had a courtesy car or if Admiral had fixed F. And Mr B thinks he saved Admiral a considerable amount of money because it didn't provide him with a courtesy car. But I think he's mistaken.

To support his argument Mr B's referred to an unrelated claim involving his partner. In that case a claims management company (CMC) provided his partner with a hire car until her own car was repaired. And the CMC passed on the £200 daily costs of that hire car to the other driver's insurer, which also happened to be Admiral. So Mr B thinks that if he'd instructed a CMC himself then it would have cost Admiral similar sums to provide him with a hire car. But that's not the case.

It might help if I explain that, where a driver's clearly not at fault for an accident, then usually the "non fault" driver may try to claim any extra expenses because of the accident, including hire car costs, from the other driver's insurer. And in such cases CMCs may provide a hire car on what's known as a credit hire basis. That is, the CMC will pay for the hire car and then claim back the costs from the "at fault" driver's insurer. And it seems that's what happened with Mr B's partner's claim. In other words because the accident wasn't her fault she could claim for the costs of a hire vehicle from Admiral because it insured the other driver who caused the accident.

But, generally, CMCs will only offer cars on a credit hire basis when they are certain they will recover their costs from the "at fault" driver's insurer. But in Mr B's case the "at fault" party was the person or persons unknown who maliciously attacked his car. And that person wasn't ever caught. That means a CMC wouldn't have had anyone to claim its costs back from. So if Mr B had approached a CMC to manage his claim for him I think it's likely the CMC would have told him that, as it didn't have anyone it could reclaim its expenses from, it wouldn't take on his case. So it wouldn't have provided him with a car on a credit hire basis.

Further, courtesy cars and hire cars aren't necessarily the same thing. Courtesy cars are usually owned by the approved repairers themselves, rather than by a hire car company. Such vehicles are typically small hatchback type cars intended to keep a driver mobile when their cars are in for repair. They're not intended as a like-for-like or similar replacement for

the car being repaired. And the repairer provides the courtesy car under the terms of its contract with Admiral. So the repairer won't bill Admiral separately for the cost of the courtesy car. That means there's usually no direct cost to Admiral for the provision of a courtesy car. It follows that I don't think Mr B's saved Admiral any money because he didn't have a courtesy car, as the repairer wouldn't have billed Admiral for it if he had been provided with one.

Mr B's said that because he didn't have the use of a courtesy car he's incurred extra costs. He said that while he bought a new car he's not expecting Admiral to pay for it. But has noted that he has incurred costs he wouldn't have otherwise had to incur if he'd had a courtesy car. And he's said his new car is depreciating. I think it's likely that Mr B did incur additional costs because he didn't have access to a courtesy car. And, as I've said above, if Admiral hadn't mistakenly said his car was a total loss, then Mr B would have had the option of a courtesy car until his car was fixed. But as neither of those things happened he had to find alternative means to travel and that's brought with it extra costs. I accept that's the case. But I don't think Admiral needs to compensate Mr B for the costs of any depreciation to his new car. As, had Mr B used F on a daily basis that also would have depreciated as mileage was added to it.

But as I've said above I do accept that Mr B was put to extra trouble and immense frustration because Admiral didn't provide the courtesy car he would have been entitled to. And this is something I've factored in when I've provisionally awarded compensation below.

service, delays and compensation

I've previously issued a decision concerning Mr B's case involving his claim for L. And as Admiral, generally, dealt with both claims together, my findings about Mr B's complaints about Admiral's service in this case largely mirror my findings in the case for L.

Mr B has been unhappy with Admiral's service from early in the history of this claim. And, amongst other things he's complained about delays, particularly in responding to his requests for information or answering his queries, to say nothing of actually settling his claim.

Mr B claimed for the damage to his cars in June 2017. Admiral went to some lengths to look into the claim including instructing external investigators. And given the high value of the two cars involved I don't find that unusual or unreasonable. That's because, given a successful claim would most likely result in a very high settlement, I think it was reasonable for Admiral to want to be satisfied that the claim was genuine before offering to settle it. And that rigour meant the claim took longer than would usually be the case before Admiral was happy that it should settle it.

I'm aware that some three and a half years later Mr B's claim still isn't settled, F still hasn't been fixed and he hasn't had the use or enjoyment of it in the meantime. Not all of those delays are because of things Admiral did or didn't do. But I do think Admiral could have made Mr B's claim journey smoother

I've seen that on numerous occasions Admiral was slow to reply to Mr B's requests for information or didn't reply at all. For example, he asked for copies of digital images taken by the recovery drivers who collected his cars. But Admiral didn't reply to that request promptly and it seems the recovery company later told Admiral it didn't have any images. Admiral passed that message - that no photos were available - on to Mr B. But Mr B had the

recovery agent's report which clearly shows that photos of the car had been taken. And he'd spoken with the recovery driver involved. So he knew that, at least at some point, such images had existed but Admiral told him they didn't.

The absence of the images taken by the recovery company is particularly significant in this case. That's because, as I've said above, it's extremely difficult to know what condition F was in when the recovery company collected it and whether those would have showed that additional damage had been caused to it while in Admiral's care. And that's made it all the more difficult for Mr B to prove that's the case. Further Mr B asked for these photos more than once, but I don't think Admiral did enough to try to obtain them, at an early stage from the recovery company. And had it done so there's a possibility they might have provided the photos while they were still available.

Also, because Admiral relied on G's report, Mr B had to go to great efforts in an attempt to show G's conclusions weren't fair, including instructing an independent engineer to examine his car.

Further, I've noted there were other times when Admiral gave Mr B incorrect answers to his questions. And I'm aware that's been a significant source of distress and inconvenience for him. For example, Mr B asked Admiral if it had any direct contact with G. Admiral told Mr B it hadn't and that B had instructed G. But Mr B later learned that wasn't the case. And, in fact, Admiral's staff had been there in person when G first inspected Mr B's cars. And Mr B is concerned that Admiral influenced G's findings as a result. I think that's unlikely, as G's engineer signed a court compliant statement to say that his findings were based on his professional opinion. But I can certainly understand why Mr B believed Admiral was being underhand, even if that wasn't its intention.

I've found a number of occasions where Admiral's service has fallen below a standard Mr B could have expected. He's experienced immense frustration over a long period, had to take time off work and he's clearly had to make great efforts to try to prove his claim. For example, by instructing engineers and providing videos and other evidence to try to prove his points. And I've thought about all of those things when deciding on a compensation award below.

Further, Mr B said he had planned to make F his daily car. And he's told us that a car like F was his "dream car" since he was a boy. But because Admiral incorrectly decided it was a total loss it still hasn't been repaired. So, apart from the practicalities of not having the use of the car, and not having a courtesy car he's also suffered a significant loss of enjoyment of it for a period in excess of three years. And, I've thought about Mr B's loss of enjoyment when considering compensation. Also, as I've said above, I've factored in the concern caused because of the gap in the service history potentially affecting F's resale value at some point in the future.

As I said in my decision for L I'm aware Mr B thinks Admiral should compensate him, on an hourly rate basis, for the time he's invested in dealing with his claim, which, in respect of both cars, he estimates to be hundreds of hours. But when considering if compensation is fair and if so how much to award we look to recognise the distress and inconvenience an individual had suffered and make an award to go some way to addressing that. But we don't calculate such awards using tariffs for particular wrongs. Nor do we use an hourly rate for a consumer's time. So I don't intend to make my award on that basis.

Having reviewed all the evidence I agree that Admiral put Mr B to unnecessary trouble and upset. Admiral's handling of the claim has clearly had a marked effect on him, causing him a significant amount of stress, which could have been avoided if Admiral had handled matters differently. Admiral has recognised it's caused Mr B some distress and inconvenience and has already paid him £1,000 compensation (for both claims) in respect of that. In other words, it's paid Mr B £500 compensation arising from his claim for F. But I don't think that goes far enough. And, to address that I think Admiral should pay Mr B an additional £1,500 compensation for this particular complaint. That brings the total compensation for Admiral's handling of this claim to £2,000."

developments

Mr B broadly accepted my provisional decision. Amongst other things he asked if I could add "some sort of costs" to Admiral if it didn't act on my directions promptly. He said F would need to be inspected on a ramp or with a lift. He offered a workshop that could be used for that purpose around three miles from his home, at a price, if required.

Mr B added that his plan, after having F repaired, is to sell it. And that by then the gap in service history will be nearer to four years. He asked if the independent assessor's report could comment on F's likely drop in value because of the gap in service history and for Admiral to compensate him in that sum.

Mr B said he would prefer it if Admiral make him a CIL settlement. And Mr B would then arrange repairs with Admiral's recommended repairer himself including arranging recovery, as long as these costs are factored in to the CIL settlement.

Mr B also asked for Admiral to return F's tool kit and service history documentation to him.

Admiral also broadly accepted my provisional decision. It clarified that E was not on its panel of independent engineers. It asked if Mr B would be happy to use an independent assessor that was on its panel. It also asked if Mr B would be happy to use its approved repairer and had questions about the practicalities for arranging the independent engineer and recovery vehicles etc.

my findings

I've considered again 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.

Both Mr B and Admiral have broadly accepted the majority of my provisional findings. So I don't intend to repeat those here and instead will comment on the key additional points raised in response to my provisional decision.

the independent engineer's assessment

Admiral has clarified that E is not currently on its panel of independent engineers. And it's suggested it should use an engineering firm from its panel. But I don't think that's fair.

I accept that Admiral might not have an existing contractual arrangement with E. But I don't think that should prevent a business of Admiral's capacity from instructing an engineering firm on a one-off basis, regardless that this might make its administration slightly more

complicated. And I think Admiral should, at the very least, contact E within 28 days from the date we tell it that Mr B has accepted my final decision to issue instructions to carry out the required work. Mr B has suggested that I award some form of financial penalty should Admiral not take this Action promptly. But I don't have the power to enforce fines against Admiral. And whether or not E accepts the work will be a matter for it. If E chooses not to accept the job then Admiral and Mr B should agree an alternative independent engineer to carry out the assessment. Admiral should act on the independent engineer's findings and factor those in when arranging repairs or making a CIL settlement.

Mr B's pointed out that the independent engineer will need a ramp or lift in order to complete the work. If that requires the car to be moved from Mr B's property in order to do so, using a recovery vehicle, then Admiral should cover the costs of that, as that forms part of the required assessment process.

Admiral has asked whether Mr B will insist on any recovery truck being "covered". And I'm aware that Admiral has encountered problems in finding suitable "covered" trucks that can access Mr B's property. I think it's fair that Admiral need only cover reasonable costs for any recovery trucks required. So it need only be responsible for what it would cost it to transport F on an uncovered truck. If Mr B wishes to use a covered truck then he may make that arrangement himself and Admiral need only reimburse him for a sum equal to what it would have cost it to use an uncovered truck.

Mr B has also offered the use of a workshop - at a price - for the independent engineer to assess his car. But it will be for Admiral to decide if it wishes to take up Mr B's offer or if it wants to use alternative premises, as long as those are sufficient to assess the car including, for example, potential damage to the underneath of F and its rear chassis and frame.

I need to be clear that these are arrangements, together with arrangements for repairs, which Admiral and Mr B will need to make directly with each other. Once issued, this final decision brings our involvement in the case to an end and it will not be for us to act as go-between or claims handlers for Mr B and Admiral.

repairs

Mr B has said that he is happy to use Admiral's approved repairers but to instruct them himself, if Admiral settles his claim on a CIL basis. As I said in my provisional decision any CIL sum should include reasonable costs for recovering F to and from the repairers.

service history

Mr B believed that Admiral should compensate him for F's drop in value because of the gap in service history. I understand that Mr B's current intention is to sell F once repairs are complete. And he might think that it would be relatively simple for an independent engineer to assess the impact of the gap in service history on its value. But I'm not convinced that's the case. F isn't an everyday road car, it's a supercar. So its appeal will be to a fairly limited market. It's also almost 18 years old and the amount that the gap in service history will affect the price will, I believe, be very much down to the preferences of the individual that's considering buying it at the time of the sale. So I don't think it would be fair to instruct Admiral to compensate Mr B for a potential loss in value that might not actually happen. But I can understand why this is a concern to Mr B and is something I thought about when considering an award of compensation for distress and inconvenience.

tool kit and service history

Mr B's asked that Admiral return his tool kit. Admiral's told us it wasn't aware a tool kit was missing. This is something Mr B will need to raise with Admiral separately as it's not something we've considered previously. Similarly, he's asked Admiral to return F's service history documents, which he says he gave to Admiral's appointed investigators. I understand Admiral has asked the relevant external investigators if they still hold those documents in order to ask to return them. That seems reasonable, however, as it's not an issue we've investigated it's not something I've made a finding on or am directing Admiral to take action on at this time.

my final decision

For the reasons set out above I partly uphold this complaint. I require Admiral Insurance Company Limited to:

- Remove the total loss marker for F from any internal and external databases making clear that the reasons for doing so was that it was applied incorrectly initially.
- Deal with Mr B's claim for the damage to F caused by the attack in accordance with the policy terms. As an alternative to Admiral repairing the car, it should offer Mr B a CIL settlement based on the cost of repairs at the date of settlement. When arranging repairs or calculating a CIL settlement Admiral should also factor in the following points:
 - Reasonable recovery costs for collecting and redelivery of F to Mr B
 - A full service
 - Repair to the sagging dashboard
 - Repair to oil marks on the lower dash below the steering column and driver's door card
 - Repair to the damage to the underneath of the front bumper
 - Repair to the paint damage to the rear panel
- Unless Mr B is happy to accept a costing provided by Admiral's approved repairers, Admiral should instruct an independent engineer to verify the costs of the claim.
- Admiral should instruct the independent engineer to make a finding on the following issues and reconsider the final claim settlement based on the engineer's findings concerning:
 - The extent of any repairs required because of the water ingress to F while it was in Admiral's care. That assessment should include a finding on whether carpets, underlay and electrics have been damaged by any water ingress.
 - If the independent engineer feels that the sun visors have suffered the same damage that the dashboard has, or if any sagging of the leather to the sun visors is limited to wear and tear.
 - Assess whether damage to interior door handles, steering cowling and rear console was more likely than not caused by the application of an inappropriate cleaning product to it; or if this was more likely to be a result of regular wear and tear.
 - Examine the passenger seat to establish if any marks to it are beyond what could be expected for a car of that age and mileage. And if the conclusion is that the marks to it are excessive, given that the car would have had some

wear in the first place, I think Admiral should be responsible for covering half of the costs of cleaning, repairing or replacing it as necessary.

- Assess if the head rests have been “smeared with oil” while in Admiral’s care. If they have then I think it would be fair for Admiral to be responsible for covering half of the costs of cleaning, repairing or replacing those as required.
 - Inspect the seatbelts. And if the engineer’s conclusion is that the seatbelts need to be repaired or replaced then Admiral should factor that in when settling the claim.
 - Assess if using a forklift to move the car has caused additional damage to the underneath of the car, rear chassis or frame and if so then this is something Admiral needs to take responsibility for.
 - Examine the boots sensors. And if the conclusion is that the sensors are damaged then Admiral should factor in the cost of repairing them when settling the claim.
 - Make a finding on whether any damage has occurred because the car has been jump started. And if the engineer concludes it has then Admiral should factor in the costs of repair when settling the claim.
 - Assess if the tyres are safe. If so then Admiral doesn't need to address this point. But, if the engineer concludes they are no longer safe, because of the delays in sorting out the repairs, then Admiral would need to factor the costs for replacement tyres when settling the claim.
- Pay Mr B a further £1,500 compensation for the distress and inconvenience he experienced for the areas where Admiral’s service fell below an acceptable standard, including the lack of a courtesy car. For the avoidance of doubt this compensation award is on top of the £500 Admiral had paid previously.
 - Reimburse Mr B the full cost of the engineer’s report he arranged. If Mr B has already paid that Admiral should also pay simple interest on the amount Mr B paid at a rate of 8% a year from the date Mr B made payment until the date he is reimbursed¹.

Admiral should begin the above action within 28 days of us advising it that Mr B has accepted my final decision. If it pays the compensation I have awarded to Mr B later than this, it must also add interest to that amount from the date of my final decision to the date of payment at a rate of 8% a year simple.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B to accept or reject my decision before 11 April 2021.

Joe Scott
ombudsman

¹ If Admiral considers that it’s required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr B 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.