

complaint

Mr C and Miss H have complained about the amount UK Insurance Limited paid to settle their motor insurance claim.

As most of the actions are those of Mr C - for the sake of ease - I'll refer only to him throughout this decision.

background

Mr C's car was written off in an accident six weeks after he bought it. He told UKI he wanted to claim on his policy - which says UKI will replace his car in these circumstances - if one's available. After a delay in inspecting his car UKI told Mr C it was a write-off (total loss). But said he'd need to wait for its engineer to consider its value before it settled his claim.

Mr C didn't think UKI would be able to provide a replacement car and said he'd been given a build slot for a new car. So he asked UKI for a settlement amount to have a new car built. But after he'd paid for this, UKI's engineer said his car's pre-accident market value was less than it cost Mr C to replace it and paid him that amount instead.

Mr C was unhappy with this amount and complained to UKI. He also complained about the delay in his car being inspected. UKI paid him £50 to compensate for the delay. But it wouldn't pay him any more for his car. It said Mr C had asked to be paid the car's market value and it hadn't made a decision on whether it could replace his car. So it didn't think it had done anything wrong.

When Mr C brought his complaint to us, the adjudicator said UKI should pay him the difference between the settlement figure and the amount he'd pay to replace his car. But UKI didn't agree and so Mr C's complaint's been passed to me for a decision.

my findings

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

Mr C's policy says UKI will provide him with a replacement car if his is uneconomical to repair following an accident. But it'll only do this if a replacement car is available in the UK. It also says if it can't replace his car it'll give him its pre-accident market value.

UKI's notes suggest it would have provided a replacement car for Mr C and – as all parties need to agree - it contacted his finance company to ask if it agreed to this. UKI's said it wasn't clear if the finance company would agree to it. But I haven't seen anything that makes me think the finance company wouldn't have agreed. So I haven't seen anything to make me think UKI wouldn't have replaced Mr C's car if one was available.

I think the fact Mr C was able to secure a build slot for his car meant a replacement was available in the UK. So I don't think UKI can rely on the policy term saying it will only replace the car if there is a suitable replacement available to refuse to pay the full amount of Mr C's claim.

I can see from UKI's call notes that Mr C told it he didn't think it would be able to find a replacement other than through the option he gave it. So he asked UKI to pay him this

amount. It “*agreed this was reasonable*” and I think this led Mr C to think UKI had agreed to his suggestion. Mr C didn’t pay the deposit for his new car until after this phone call. So I think it’s fair and reasonable for UKI to pay Mr C the difference between what it said was the car’s market value and the amount it cost him to have his new car built.

Mr C paid £66,068 for the car that was damaged in the accident. UKI said the pre-accident market value was £63,000 and paid him £61,900 to take account of his £1,100 excess. I’d only expect UKI to pay to replace Mr C’s car to the same specification as the one he damaged. And the cost of doing this was the same as the price he’d originally paid. Mr C would still need to pay his excess on a new car replacement. So this means I think UKI should pay him £3,068.

my final decision

For the reasons set out above, my final decision is that I uphold this complaint and require UK Insurance Limited to pay Mr C and Miss H £3,068.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C and Miss H to accept or reject my decision before 8 April 2016.

Sarann Taylor
ombudsman