

complaint

Mr W has complained that RAC Insurance Limited didn't offer him repatriation of his car under his European Breakdown Cover policy and wouldn't pay for damage caused to his car when it did agree to repatriation.

background

Mr W and his wife were on holiday in France when his car developed a fault so he contacted RAC. Mr W was due to return home from his holiday on 26 May.

A patrolman inspected Mr W's car on 21 May and thought that it was probably a fault with the alternator. Further discussions took place between Mr W and RAC and it found a dealership garage that could take Mr W's car for repairs. However, the garage couldn't look at Mr W's car until 28 May, two days after Mr W's holiday ended. Several more discussions between RAC and Mr W took place to decide that Mr W and his wife would travel home as foot passengers by ferry and Mr W would return to France to collect his car a week later when the repairs had been carried out. RAC said it would provide Mr W with a hire car for seven days while he was in the UK, which was longer than his policy entitled him to, and because he wasn't having his car repatriated.

Mr W returned home on 26 May and the next day he asked RAC why it didn't offer him repatriation of his car. RAC said that he didn't request it and he had agreed to return to collect his car when the repairs had been done. Mr W complained to RAC as he felt it should have offered him the option of having his car repatriated in line with his policy.

RAC agreed to repatriate Mr W's car but told Mr W he would have to pay £150 toward the costs. It said that it had paid £250 in hire car charges above and beyond its policy so it was reasonable for him to pay a contribution. It said it did this as Mr W had agreed he would use the hire car for a week until he could return to France to collect his own car.

Mr W felt this wasn't the point. He thought that RAC should have offered him repatriation as if it had, he would have accepted it given the circumstances. He felt that it was something that it was aware of as an option under his policy. And as it discussed so many other options regarding his travel home and his return to France, he believed it deliberately didn't mention it to save costs. He said that from the start, he had made it clear to RAC that he and his wife are elderly and his wife was unable to travel by air, so he obviously would have taken up the offer of repatriation instead of returning to France to collect his car. He was also unhappy with the diagnosis made by the dealership garage in Lyon. He was worried about collecting his car and driving it on such a long journey at the risk of further faults as he wasn't confident that it had repaired his car properly.

On 18 June, RAC discussed Mr W's complaints with him and Mr W paid £150 to have his car repatriated. He received his car back on 30 June.

Mr W was unhappy with the length of time this took and the fact that he had to pay £150. However, RAC felt it had dealt with his request within a reasonable period of time, and it couldn't be held responsible for delays at Calais which impacted on the return date for his car.

Three weeks after Mr W's car was delivered to him, he contacted RAC while it was investigating his complaint about its failure to offer repatriation to him, and complained about damage caused to his car. He said that the damage was consistent with damage caused by the way his car was strapped to the towing truck and he sent RAC an estimate from a local garage for over £3,000.

RAC didn't accept Mr W's complaints. It said that it wasn't wrong not to have offered him repatriation as Mr W hadn't asked for it until he'd returned home and his car had since been repaired in France. It said that Mr W agreed that he would travel home to the UK and return by ferry and train to collect his car in France a week later. It said that the dealership garage was best placed to correctly identify any fault and repair his car.

It said that with the benefit of hindsight, repatriation should have been offered to him. But as it did then agree to repatriate Mr W's car for a small contribution, it thought this was reasonable. It said it would refund Mr W's costs for his ferry travel as a foot passenger which he had to pay for separately and his taxi fare from the ferry to the hire car company.

With regards to the car damage, RAC said that Mr W had signed for the delivery of his car on 30 June and made no reference to any damage until 23 July. So it didn't think it was reasonable to expect it to consider such damage when his car had been in his possession for so long since delivery. It provided Mr W with a diagram of how the towing truck handler straps a vehicle when repatriating and said this demonstrated that the alleged damage couldn't have been caused by the towing truck in any case.

Mr W didn't agree. He said that he was already dealing with the tension of breaking down abroad and the many discussions about his car not being likely to be repaired before he returned home, so he didn't understand why RAC never offered him repatriation as it applied in his case. He took exception to its repeated reference to his agreement to collect his car when he was never offered repatriation as an alternative solution.

He said that because of his experience with RAC, he didn't see any benefit in mentioning the damage to his car until he had evidence to support his complaint. He thought RAC should consider that the garage was of the opinion that the damage was caused by the straps used by a towing truck.

Mr W brought his complaint to the Chief Executive of RAC. The Chief Executive remained of the view that RAC had dealt with Mr W fairly. So Mr W brought his complaint to us.

The adjudicator who investigated it didn't recommend that it should be upheld. He was of the view that it was for Mr W to have asked for repatriation of his car and because he didn't do so, RAC had dealt with him reasonably.

Mr W didn't agree. I then issued a provisional decision on 4 December 2015. I saw nothing under its policy to suggest that the onus was on Mr W to ask for repatriation in order for RAC to provide it to him. RAC's notes showed that it had considered repatriation four days before Mr W returned home and when it knew that his car wouldn't be looked at until after he returned home – so I thought RAC had been unreasonable to Mr W by not offering it to him then. I provisionally intended to award Mr W £200 compensation for the trouble and upset RAC had caused him.

I didn't intend to uphold his complaint that RAC should pay for damage to his car which he said was caused by the towing truck as there wasn't enough information to persuade me that it was responsible. Mr W hadn't taken any photographs at the time and RAC had provided a diagram of how the car was held by the towing agent which made it unlikely that the damage to Mr W's car was caused during repatriation.

Mr W was pleased that part of his complaint was to be upheld. However he felt that the compensation award didn't reflect the trouble and upset RAC's failure to offer repatriation caused him. He and his wife are in their eighties and seventies respectively and his wife suffers from claustrophobia. So the ordeal of having to return to France to collect their car after it had been repaired was highly stressful. Mr W says that he bitterly regrets not taking photographs of his car when the towing agent returned it to him. But he thought the best thing to do was to get an independent assessment of the damage to his car before presenting it to RAC.

I reconsidered my initial compensation award of £200 and I was persuaded that this wasn't enough in this case to reflect the trouble and upset caused to Mr W. So I asked RAC - who had accepted my provisional decision - if it would agree to increase the award to £350 which it did.

So the matter has been referred back to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. For ease, I've set out the key issues under headings below.

RAC should have offered Mr W repatriation

RAC's policy says that

"If a vehicle has broken down or been in a road traffic accident in Europe during a journey during the period of cover and, following a service provider attending in accordance with Section 3, the vehicle cannot be repaired by your planned return to the territory, we will arrange and pay for:

- 1. Storage of the vehicle, while awaiting repatriation by us in accordance with this section; and*
- 2. Repatriation of the unaccompanied vehicle by road transporter from the place of the breakdown or road traffic accident or the local repairer to your home or a repairer in the territory chosen by you, providing the cost is not more than the market value of the vehicle (or up to £500 (whichever is lower))"*

I think the policy is clear, however I see nothing that suggests the onus is on Mr W to specifically ask for it in order for it to be reasonably applied.

Its business notes from the RAC handler in Lyon shows that on 22 May the dealership garage told RAC that it wouldn't be able to look at Mr W's car until 28 May. This was two days after he returned to the UK. Its notes show the following recorded half an hour later:

"Repat will cost £939 back to (Mr W's postcode listed)"

So RAC considered repatriation four days before Mr W was due to return home when it knew that Mr W's car couldn't be even looked at until after he returned home. But it never mentioned this as an option to Mr W.

RAC itself has said that with hindsight *"repatriation would've been offered and details of this have been fed back to our agent in Lyon to prevent a repeat in the future."* The Chief Executive reiterated that if Mr W had suggested any issue before repairs were carried out, repatriation would have been offered to him. But I think this is unfair to Mr W because clearly RAC knew that repatriation was an option to Mr W but chose not to mention it at all.

I believe Mr W's account that the reason why he agreed to RAC's travel suggestions and the hire car was because repatriation was never offered to him. I think it's clear that Mr W would have benefitted from repatriation rather than extended use of a hire car and travel back to France a week later. So I don't think the extended use of a hire car by RAC reflects as a goodwill gesture for Mr W as it didn't give him an alternative that was available to him.

I can't see why it has insisted that the onus was on Mr W to ask for repatriation, when it clearly applied in his circumstances, and it had gone to the trouble of getting a quote for it. I therefore think RAC was unreasonable to Mr W by failing to offer repatriation to him on 22 May and the way it handled his complaint about this has caused him trouble and upset which he should be compensated for. I've considered that Mr W would have had to pay the excess for the costs of repatriation as it was limited to £500 and Mr W paid £150. But I think RAC handled the issue of repatriation poorly and caused Mr W unnecessary trouble and upset, so I think it should pay him compensation in any event of £350.

Mr W's car was damaged while being repatriated

Mr W's car was delivered to him on 30 June and he sent RAC an email saying the following:

*"Dear Mark,
I am pleased to tell you that our vehicle (registration plate) was returned safely to our home at 1700 today, June 30th. Thank you - and I await your communication addressing the issues I have raised over the past five weeks."*

Mr W emailed RAC again on 20 July about his complaint and made no reference to any damage sustained to his car. It wasn't until 23 July in an email that Mr W told RAC he intended to send it an estimate as a garage had inspected his car and thought damage had been caused as a result of how it was strapped to the towing truck.

Mr W said that the reason why he didn't contact RAC before was because he wanted to have evidence to support his further complaint and based on his experience with RAC, he didn't see any benefit in telling it about the damage any earlier.

I understand Mr W's reasons, however I don't think RAC was wrong not to consider the damage to his car. I think that Mr W had a responsibility to check his car when it was delivered to him and even if this wasn't possible (he said the truck was holding up traffic as he lives on a main road) he should have checked it immediately afterwards. I think he had the opportunity to take photos or at least alert RAC to any damage he identified then and this wouldn't have prevented or delayed him from getting an estimate.

The diagram that RAC provided indicates that it was less likely that the damage was caused by the way his car was strapped to the towing truck. Obviously neither I nor RAC can say that for certain and I appreciate that this is the opinion of the garage that inspected Mr W's car. However, Mr W had use of his car for almost a month after it had been delivered to him and because he didn't alert RAC to the damage at the time, I don't think it was unreasonable of it to decide not to consider Mr W's claim for the damage to his car.

I'm satisfied that RAC didn't cause delays in providing a hire car to Mr W in France as one was available the following day. I don't think the timeframe in having Mr W's car repatriated once agreed (this took a week and a half) was unreasonable given the issues at the port of Calais which was outside of RAC's control.

my final decision

For the reasons I've discussed above, my final decision is that I uphold this complaint in part and I require RAC Insurance Limited to pay Mr W £350 compensation for the trouble and upset it caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 17 March 2016.

Geraldine Newbold
ombudsman