

complaint

Ms S complains about the service she received following a claim against her European motor breakdown cover provided by RAC Insurance Limited.

background

The background to this complaint was set out in my provisional decision of 2 May 2019, an extract of which is attached and forms part of this final decision. So, I won't repeat that information here.

In my provisional decision, I set out why I intended to uphold Ms S's complaint and what RAC should do to put matters right. I invited both parties to let me have any further comments and evidence by 16 May 2019. RAC said it couldn't disagree that too much emphasis was put on the tyres rather than the brakes when it handled the claim and complaint, so it had nothing further to add. Ms S hasn't responded to my provisional findings.

my findings

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

Given that neither Ms S nor RAC has provided me with anything further on the complaint, I see no reason to depart from the conclusions I reached in my provisional decision. So, I find that RAC sought to rely on the exclusion relating to the condition of the tyres on Ms S's car but there's nothing to suggest that the breakdown was due to unroadworthy tyres. In any event, RAC can't rely on the exclusion in relation to breakdowns that would have been prevented by routine services as, on balance, I'm satisfied that Mr S's car was serviced before her holiday.

To put matters right, RAC should reimburse Ms S for any costs she incurred due to the breakdown that would have been covered under the policy, such as repair and taxi costs, subject to the policy terms and conditions. It should also pay interest and compensation of £400 in relation to Ms S's distress and inconvenience.

my final decision

My final decision is that I uphold Ms S's complaint. I now direct RAC Insurance Limited to;

1. reimburse costs Ms S incurred due to the breakdown which would have been covered under the policy on production of appropriate proof of payment and subject to the policy terms and conditions;
2. pay interest on the amount reimbursed at 8% simple* per year, from the date(s) of payment(s) to the date of settlement and;
3. pay Ms S compensation of £400 in relation to her distress and inconvenience.

*HM Revenue & Customs requires RAC to take off tax from this interest. RAC must give Ms S a certificate showing how much tax it's taken off, if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 24 June 2019.

Louise Povey
ombudsman

extract of provisional decision

complaint

Ms S complains about the service she received following a claim against her European motor breakdown cover provided by RAC Insurance Limited.

background

I've summarised events in rather less detail than they've been presented. No discourtesy is intended by that. It's a reflection of the informal service we provide. So, if I don't mention something it's not because I've ignored it. This approach allows me to focus on the issues on which I consider a fair outcome will turn.

On 3 September 2018, Ms S was driving her car abroad on holiday when she noticed a noise that gradually got worse. The first garage Ms S drove to told her that there was a problem with the rear, passenger side brake and referred her to another nearby garage for repair. Ms S drove to the nearby garage and then contacted RAC for assistance.

RAC took Ms S's car away and arranged for a taxi to take Ms S and her partner back to their campsite. The following day, a rental car company instructed by RAC tried to deliver a rental car to Ms S but couldn't access the campsite. RAC arranged a taxi to take Ms S to the rental car office.

Ms S says that on 6 September 2018, RAC told her that her claim wasn't covered under her policy, as the tyres on her car were unroadworthy. She paid for the repair of her car herself.

In its final response to Ms S, RAC said that her policy doesn't cover any claim as a result of vehicle breakdown due to tyres that aren't roadworthy.

Ms S complains that RAC was wrong to refuse her claim. She also complains that RAC gave inaccurate information throughout. Ms S wants compensation, an explanation and an apology.

In response to this service's request for information, RAC said that Ms S's policy doesn't cover a claim as a result of a breakdown due to unroadworthy tyres and that the car must be kept in good mechanical condition, which Ms S's car wasn't.

Our investigator didn't think that RAC had treated Ms S fairly. He said that RAC hadn't applied the exclusion in the policy fairly, as the breakdown wasn't related to the tyres.

The investigator also said that it wasn't reasonable for RAC to refuse the claim on the ground that Ms S's car wasn't in good mechanical condition. He said that Ms S wouldn't have known that there was an issue with the brakes: she had her car serviced before her holiday, there were no advisories in the last MOT and the initial garage said that the car was in moderate condition.

The investigator thought that Ms S had experienced a number of issues in relation to the service she received from RAC. He thought that RAC should reimburse, with interest, the costs the policy would've covered and the cost of the taxi from the car rental site to the garage and pay Ms S compensation of £250 in relation to her distress and inconvenience.

RAC said that too much emphasis was placed on the condition of the tyres, as the supervisor's notes also said that RAC relied on the exclusion due to rust or corrosion. It said that the invoice for the service of Ms S's car before her holiday shouldn't be considered genuine, as there's no registration number, mileage, customer name or invoice number, which would all be present on a genuine invoice. RAC said that the tyre looked illegal and the brakes were in a disgraceful condition through neglect.

Ms S didn't think that the compensation suggested by the investigator was sufficient. As there was no agreement between the parties, the complaint was passed to me, an ombudsman, to decide.

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.

The first question for me to determine is whether RAC treated Ms S unfairly in refusing her claim. I think there's been confusion about RAC's reason for refusing Ms S's claim.

In Ms S's detailed statement of all that occurred, she says that RAC told her that it was refusing her claim as the tyres on her car were bald or unroadworthy. That's the only reason mentioned in RAC's final response letter to Ms S too.

RAC is the expert here and I'd expect it to set out clearly the exclusion on which it seeks to rely. On balance, I think RAC told Ms S that it was refusing her claim because of the condition of the tyres. It mentioned only that exclusion in its final response to Ms S. So, I'm proceeding on the basis that RAC sought to rely on that exclusion.

I appreciate that RAC's notes refer to the general condition of Ms S's car, several grounds for exclusion and breakdowns that would be prevented by routine servicing. It seems to me that the supervisor made a note of several exclusions, some of which weren't relevant. On balance, I'm not satisfied that RAC told Ms S that it relied on anything other than the exclusion relating to unroadworthy tyres.

So, it's for me to determine whether RAC acted fairly in refusing Ms S's claim because the breakdown was due to unroadworthy tyres. It's common ground that the breakdown of Ms S's car was due to the rear break pad and disk. I've seen nothing to suggest that the breakdown was due to unroadworthy tyres. Even if the tyres of Ms S's car were unroadworthy – which is disputed – it didn't cause the breakdown. So, RAC can't rely on that exclusion in the policy.

Even if I took a different view about the grounds on which RAC refused Ms S's claim, I don't think RAC can rely on the exclusion in relation to breakdowns which would be prevented by routine servicing. I'm satisfied that Ms S's car had a routine service before her holiday. Whilst I note RAC's points in relation to the invoice for the service, it's not uncommon for invoices to bear scant information. I've seen a visa debit receipt for the payment of the service. On balance, I'm satisfied that the service took place. So, the breakdown wasn't prevented by routine servicing. There's nothing to suggest that Ms S would or should have been aware of the condition of one of the brake pads and disks.

To put matters right, I think that RAC should reimburse Ms S for any costs she incurred due to the breakdown that would have been covered under the policy, such as repair and taxi costs, subject to the policy terms and conditions. As Ms S has been kept out of the use of the money she's paid, it should also pay her interest on the amounts she paid, from the dates she paid them until settlement.

A car breakdown whilst on holiday abroad is, in itself, stressful. RAC isn't responsible for that. But there was delay in RAC dealing with Ms S's claim. Ms S asked for assistance on Monday 3 September 2018 and her claim was incorrectly refused on Thursday 6 September 2018. There were also instances of miscommunication about taxis and car hire collection and delivery, which no doubt added to the difficulties Ms S faced. In all the circumstances, I think fair compensation for Miss S's distress and inconvenience is £400. In reaching that view I've taken into account the nature, extent and duration of the distress and inconvenience Ms S suffered as a result of RAC's handling and refusal of her claim.

Ms S asked that RAC apologises for the service it provided to her. I don't think a forced apology would have much meaning, so I won't ask RAC to issue one.

my provisional decision

My provisional decision is that I uphold Ms S's complaint. I intend to direct RAC Insurance Limited to;

- 1. reimburse costs Ms S incurred due to the breakdown which would have been covered under the policy on production of appropriate proof of payment and subject to the policy terms and conditions;*
- 2. pay interest on the amount reimbursed at 8% simple* per year, from the date(s) of payment(s) to the date of settlement and;*
- 3. pay Ms S compensation of £400 in relation to her distress and inconvenience.*

**HM Revenue & Customs requires RAC to take off tax from this interest. RAC must give Ms S a certificate showing how much tax it's taken off, if she asks for one.*