

The complaint

Mr T has complained about the service received from Marshmallow Insurance Limited when making a claim on his motor insurance policy.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again in detail here. In summary Mr T made a claim under his motor insurance policy when the catalytic converter was stolen from his car. He complained about the very poor service he received, and Marshmallow accepted it fell short of its usual standards. It offered compensation.

Our investigator upheld the complaint. He didn't feel the compensation of £300 offered was sufficient, he recommended that compensation be £375. He felt that Mr T was also entitled to a loss of use payment for the time without his car in the sum of £450 with interest added.

Mr T accepted the investigator's recommendation, but Marshmallow didn't. It made an alternative offer of for loss of use of £180, as well as increasing the overall compensation to £450 - £630 in total.

As no agreement has been reached the matter has been passed to me to determine.

What I've decided – and why

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 I agree with the conclusions reached by the investigator for these reasons:

- The relevant regulator's rules say that insurers must handle claims promptly and fairly. Marshmallow accepts that it didn't handle this claim as well as it should have done and has offered to pay compensation to reflect this. I've looked carefully at this together with the loss of use payment to see if Mr T has been treated fairly.
- Mr T's policy provides that an excess is payable in the event of a claim, so I don't find that Marshmallow was wrong when it said this was payable. Likewise as his car was written off, Marshmallow was entitled to retain the annual premium.
- Marshmallow has accepted that the service it provided to Mr T was less than he could expect. I agree. The limited communication, delays and overall poor service aren't challenged. I accept that this would have been time consuming, inconvenient and very stressful for Mr T and I agree compensation is due. I acknowledge that it impacted his mental health. I find the sum of £375 is fair and reasonable in the circumstances.
- Whilst Marshmallow has now increased its offer of compensation, it has done so because it doesn't agree with the loss of use settlement proposed by our investigator.

I find that recommendation was fair – I'll explain why.

- Marshmallow accept that Mr T was offered a hire car on 13 December 2022. This was three weeks after he submitted his claim. But it says that this was outside its normal process as the policy term is that customers are eligible for a courtesy vehicle from the date their car is allocated to a garage. This was on 9 January 2023. So Marshmallow felt the loss of use payment was due from that date. However, because the request for a hire car, rather than a courtesy vehicle, wasn't actioned, it felt an overall compensation increase was more appropriate. I understand Marshmallow's reasoning, but I don't agree it is fair in the circumstances.
- I say this because Marshmallow deemed it reasonable to offer a car on 13 December 2022 and I think that was fair. However, Mr T wasn't provided with a car. Ultimately the engineer assessed his car as being a total loss on 27 January 2023, 45 days later. Mr T had made it clear from the start of his claim that he would have been able to get the repair done himself, but because of the cost he decided to put the claim through his insurance. Thereby started the long drawn-out claim that the parties are familiar with. I'm satisfied that being without a car caused Mr T difficulties getting into work, inconvenience and expense. So although Mr T's car wasn't actually with the approved repairer until 9 January 2023, I'm persuaded that 45 days loss of use is fair and reasonable. At £10 per day this is a total of £450. I don't find there was anything more that Mr T could have done to mitigate the inconvenience he suffered.

My final decision

My final decision is that I uphold this complaint.

I require Marshmallow Insurance Limited to:

- Pay Mr T £375 in compensation
- Pay Mr T £450 for loss of use
- Add interest add interest to the £450 at an annual rate of 8% simple from 27 January 2023 until the date of settlement

If Marshmallow Insurance Limited consider they're required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mr T how much they've taken off. They should also give Mr T a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 29 January 2024.

Lindsey Woloski
Ombudsman