

## **The complaint**

Mr M complains that Markerstudy Insurance Company Limited provided him with a poor service after he made a claim under his car insurance policy and didn't pay the full cost of his repairs.

## **What happened**

In February 2022 Mr M was abroad in Europe when his stationary car was hit by a third party in a car park. The third party admitted liability.

Markerstudy instructed their UK handling agents to deal with the overseas insurer in recovering their costs.

Mr M wanted to use his own repairer and receive a cash settlement as he wanted to maintain the warranty on his car. He paid for the repairs himself and awaited settlement.

Markerstudy advised Mr M that they would only pay £27.50 per hour for the labour charges, and so there was a deficit between their cash settlement offer and the price Mr M paid for his repairs. Mr M was unhappy with this as the third party was liable for the damage and he felt the third party should cover all of his repair costs, not just the costs restricted under the policy.

In addition, the claim took a long time to be processed. This prompted three complaints from Mr M during the course of the claim. Mr M raised concerns about Markerstudy failing to chase the claim for months at a time, failing to respond to correspondence or to give updates, and not paying him the full cost of the repairs.

In their first final response in May 2022, Markerstudy paid Mr M £100 for delays and in their second response in November 2022 they paid a further £225 for delays and poor service.

In the third response on 15 March 2023 Markerstudy didn't uphold any of the points raised in the complaint.

Mr M was unhappy with Markerstudy's response and brought his complaint to us.

While the complaint has been with us, Markerstudy paid Mr M a further £863.10 which was the value of the outstanding labour charge and Mr M's transport costs to drop off and pick up his car. Markerstudy said this had been paid as a gesture of goodwill.

One of our investigators looked into Mr M's complaint. She thought that Markerstudy should have done more and recommended that they pay 8% simple interest on the payment of £863.10 that they paid in May 2023, and also an additional £125 compensation, bringing the overall compensation to £450.

## **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.

What I have to decide is whether Markerstudy have acted fairly and reasonably and in line with the terms of the policy when dealing with Mr M's claim.

Having thought about this I'm upholding this complaint and I will explain why.

### **The cost of repairs**

Mr M had his car repaired by his own repairer, as he wanted to maintain the warranty on his vehicle, which he says would have been invalidated if he had used the approved repairer.

In Mr M's policy there is a term which restricts the hourly rate paid under the policy if the insured uses his own repairer. It says:

*"At your option you can arrange for a repairer of your choice to carry out the repairs. You must send us at least two detailed repair estimates and full details of the incident as soon as reasonably possible. We will only be liable for the repair costs at a non-approved repairer if we have agreed that the costs are reasonable and we have issued an authorisation to the repairer.*

*We may need to inspect the vehicle. We reserve the right to ask you to obtain alternative estimates and we may not pay you more than the approved repairer would have charged them for the repair of the insured vehicle."*

In a letter to Mr M on 3 March Markerstudy confirmed to Mr M that they were only able to authorise a labour rate up to £27.50 an hour, and any additional labour charge above that would be his liability. Mr M advised Markerstudy at the time that he was unhappy with this as the damage was the third party's fault, and he didn't think this term should apply in that situation. He felt Markerstudy should try and recover all his losses.

Mr M made it clear that he wanted his excess of £250 paid and he wanted full recovery of the cost of his repairs, including the difference in liability. The difference in labour costs came to £772.74, plus the transport to and from the garage of £90.36 totalling £863.10. After various delays and correspondence, in March 2022 the third party insurer advised Markerstudy that they would only be able to receive what they had paid out for the repairs, not the difference in liability, but they would pay the excess.

On 10 June 2022 the third party insurer agreed to pay Markerstudy their outlay of £2811.23 and the excess of £250.

Then on 21 June 2022 the third party insurer asked Markerstudy why there was uplift being claimed by Mr M for the difference in liability and whether this was approved by Markerstudy.

In August 2022 Markerstudy responded saying that the difference in labour should be paid as it was variance between the labour rate under the terms of the policy and the actual cost. In November 2022 the third party insurer queried this, asking why the additional labour charge wasn't covered under the policy. Markerstudy's response confirmed that that third party was at fault but didn't address the query raised. In December they wrote again to the third party insurer confirming that the additional costs were due to Mr M because he had used a specialist repairer who he lived 50 miles away from , and so there was a mileage claim for the travel. They asked when the outlay would be reimbursed.

No response was received but then the third party insurer made an offer in February 2023 for £2811.23 plus the policy excess of £250 and asked if Markerstudy would accept this or

provide evidence of why a more expensive repairer was required. They said that it appeared that the additional costs may have been related to a different matter, and that incurring them was a choice. They also disputed travel costs as there was a nearer branch of the garage that Mr M could have used.

On 2 March 2023 Markerstudy accepted the offer made by the third party without providing any further information or evidence to the third party about why Mr M had used the repairer that he had. They didn't confirm to Mr M that they had accepted the offer, and neither can I see that they asked him for any further information or evidence to prove that he needed to use his own repairer.

In May 2023 Mr M queried where his payment was and Markerstudy wrote to him and advised:

*"We refer to the above matter and your email dated 16/05/2023.*

*By way of an update please be advised that we continue to hold the third party at fault for the above incident.*

*We have previously instructed our UK handling agents to pursue the third party and recover our losses. We are now waiting for them to confirm that a full recovery has been made. When that's confirmed we can close this file."*

I don't think this letter was helpful, as it gives the impression that Mr M will get his full costs met, and it doesn't advise him of what has been agreed by them, or that any further information was sought.

Having reviewed this correspondence between Markerstudy, their agents and the third party insurer, I think that Markerstudy had the opportunity to explain why Mr M had used his own repairer and to try and recover the full costs for him, but they failed to do so, and so they weren't acting in his interests. So I think it is fair in this situation that Markerstudy cover the full costs paid out by Mr M, because they failed to respond properly to the third party's questions which would likely have resulted in the full costs being recovered.

Since the complaint has been with the service, Markerstudy have made a payment equivalent to the difference in liability plus mileage, amounting to £863.10. They have said that this is a gesture of goodwill payment, and so they don't agree with our investigator's view that they should pay interest on this payment.

I've thought about this, but for the reasons I have given above, I think that regardless of Markerstudy saying that they have paid it as a gesture of goodwill, I would be directing that full reimbursement is fair and reasonable in this situation. And so as I have decided that they should reimburse Mr M in any event, it is then also fair that Markerstudy pay 8% simple interest as Mr M has lost the use of his funds since he paid the bill for repairs.

### **Delays and service.**

During the course of this claim, Mr M has made 3 complaints, and has received two payments for the poor service amounting to £325.

I've reviewed all the service provided, and I think that Markerstudy have provided a service that fell well below the level of service that Mr M was entitled to expect. I do appreciate that dealing with an overseas insurer can cause delays, but there are still significant periods of time without anyone chasing up what was happening, there were failures to respond to

correspondence and calls, and in the end there was poor communication when representing their customer's interests to the third party.

The whole saga spanned 1 year and three months from when Mr M paid his bill to when Markerstudy resolved it, and so I think that, notwithstanding the difficulties of it involving a party overseas, it has caused considerable distress and inconvenience to Mr M, and I agree with the investigator that an additional £125 should be paid in respect of this, bringing the total compensation to £450.

### **Putting things right**

To put things right, I think Markerstudy should:

- Pay 8% simple interest on the £863.10 payment from the date that Mr M settled his bill to the date that Markerstudy made the payment of £863.10.
- Pay an additional £125 compensation, bringing the total up to £450

### **My final decision**

My final decision is that I'm upholding Mr M's complaint and directing Markerstudy Insurance Company Limited to put things right as above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 18 January 2024.

Joanne Ward  
**Ombudsman**