

The complaint

Mr H complains about RAC Insurance Limited ("RAC") and the service he received when he made a claim on his Breakdown Cover policy.

What happened

On 22 December 2022, Mr H was travelling to visit relatives with his wife and children. Unfortunately, during this journey, Mr H's car broke down. So, he contacted RAC to make a claim on his Breakdown Cover policy, which he held as an additional benefit included with his separate motor insurance policy.

But Mr H was unhappy with the way RAC handled his claim. So, he raised a complaint. Mr H was unhappy with the delays he experienced during the claim, which ultimately saw him and his family being given overnight accommodation on the night of the breakdown. Mr H was unhappy with the information RAC provided him during this time, and the costs he incurred travelling home the following day which he felt RAC should refund. Mr H was also unhappy with RAC's failure to return his car to him from storage when they should've done, and the impact this had on him and his wife, who was the carer of his father-in-law. So, he wanted to be compensated for all the above.

RAC responded to the complaint and upheld it in part. They thought they had offered Mr H the benefits of the "Onward Travel" entitlement as they would expect. But they accepted there were delays in this being arranged, and so offered Mr H a total of £150 compensation to recognise this. Mr H remained unhappy with this response and so, he referred his complaint to us.

Once the complaint was with our service, RAC set out the complaint issues they felt our service had jurisdiction to consider. Specifically, RAC felt our service could consider the "Onward Travel" entitlement. But they didn't think our service could consider anything else, including the returning of Mr H's car from storage and any delays during the breakdown claim itself. And this was supported in their complaint response, which stated Mr H's referral rights applied only to the Onward Travel element of his complaint.

Our investigator considered the complaint and didn't think all of Mr H's complaint points could be considered. They thought all the activities carried out under the Breakdown Cover other than the Onward Travel element weren't regulated. And so, she didn't think they were something we could consider. And having considered the Onward Travel element, our investigator thought RAC had provided Mr H with his entitlements under this aspect of the cover. So, our investigator didn't think RAC needed to do anything more on this occasion.

Mr H didn't agree. While he accepted he was provided with overnight accommodation, he thought RAC had delayed them unreasonably when arranging this. And so, he thought he and his family should be compensated for the upset and inconvenience these delays caused, as well as what he felt was RAC's failure to communicate with him effectively during the claim process.

Our investigator responded, explaining again that the service elements including the delays

and failure to communicate fell outside of our service's jurisdiction. So, their position remained unchanged. Mr H continued to disagree and so, the complaint has been passed to me for a decision.

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'm not upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Before I discuss why I've reached my decision, I think it's important to set out clearly exactly what I've been able to consider.

This service doesn't have a free hand to consider every complaint that's brought to us. The rules under which the Financial Ombudsman Service operate are set out by the regulator, the Financial Conduct Authority. These are known as the DISP rules. These rules set out the limits to what our service can and can't consider.

DISP 2.3.1 says:

"The Ombudsman can consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a firm in carrying on one or more of the following activities:....

.....(1) regulated activities.."

There are other activities that are listed under the rules, however 'regulated activities' are most applicable to Mr H's complaint.

RAC is a business that is covered under our compulsory jurisdiction, so I've gone on to see if what Mr H complains about is a 'regulated activity'.

The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ("the Order"), sets out the rules about which activities are 'regulated'. There are two main categories of regulated activities for insurance – the sale and administration of a contract (the policy) and the performance of a contract. The majority of Mr H's complaint is about the breakdown cover – and the service he received in relation to this. This relates to effecting and carrying out the contract of insurance which falls under the performance of a contract. Therefore, is a regulated activity.

But the Act also sets out exemptions or exclusions of certain activities. There's an exemption in the Order that relates to roadside assistance. This says that the exemption applies to providers that meet all the following criteria:

- they only provide roadside assistance insurance;
- the cover in question exclusively or mainly provides assistance which consists of benefits in kind (rather than monetary benefits);
- the assistance the policy provides consists of repairs to and/or removal of a vehicle in certain circumstances;

- the assistance is not provided outside the UK or Republic of Ireland; and
- where the breakdown occurs within the UK or Ireland, the assistance is, in most circumstances, provided by the insurer's own staff.

I've looked at all the information, the type of policy Mr H holds with RAC and the policy terms and conditions. Having done so, I'm satisfied the policy Mr H is complaining about meets all of the above criteria for sections A, B and C, which cover the service provided to Mr H by RAC at the roadside, at home and when recovery is being arranged. This means any activity being complained about here, under these sections is exempt from being regulated and therefore our service doesn't have the power to consider it. This includes the information given to Mr H during the arrangement of roadside assistance and recovery, any delays experienced during this process and the return of his car from storage and any impact these delays caused. So, I won't be commenting on these aspects of the complaint any further.

But the "Onward Travel" section of the policy is an additional cover, and so, this aspect doesn't fall under exemptions and exclusions. So, this is something our service is able to consider, and this is what my decision has focused on.

I've seen Mr H's policy document. And, under Section D which is titled "Onward Travel" it explains that RAC had an obligation to provide Mr H with a *"Hire car, alternative transport or overnight accommodation to allow you to continue your journey if your vehicle cannot be repaired"*.

The policy terms go on to explain that *"If we attend a breakdown under Sections A (Roadside) or B (At Home), and cannot fix your vehicle the same day, we will help you by making arrangements to allow you to continue your journey. You can choose one of the following options, based on your circumstances and subject to availability:*

1. *Hire car;*
2. *Alternative transport; or*
3. *Overnight accommodation."*

In this situation, I've seen a roadside repair wasn't possible. And that Mr H refused recovery to a garage for a repair, instead opting for a recovery home. So, I think it's accepted that Mr H was entitled to the benefits provided in the Onward Travel section, as his vehicle couldn't be repaired the same day.

I've seen that, on the same day Mr H broke down, he was provided with overnight accommodation for him and his family. And I've seen the following day, RAC booked a hire car for Mr H at around 10am that morning.

So, because of the above, I'm satisfied that RAC did provide Mr H with his entitlements under the Onward Travel section of the policy. In fact, I think RAC provided more than they needed to, as the policy terms stated Mr H was entitled to one of the options, but RAC opted to provide Mr H with two. I note Mr H declined the option of a hire car, and I do recognise why he felt he needed to do so, considering the level of service he felt he'd already received. But this was ultimately Mr H's own decision to make. And this doesn't detract from RAC's offer to provide a hire car, when they didn't need to do so. For these reasons, I don't think I can say RAC have acted unfairly, or outside of the terms and conditions of the cover Mr H held, when providing Mr H with his entitlements under this section of the policy. And so, I don't think they need to do anything more on this occasion.

I understand this is unlikely to be the outcome Mr H was hoping for. And I recognise in Mr H's comments to our investigators view, he's made several points relating to what he felt were unreasonable delays, and the inconvenience these delays caused. But as I've explained earlier within my decision, I'm unable to consider these delays as they relate to activities that are excluded and so, outside of our services jurisdiction. And because of this, they haven't impacted the decision I've reached.

My final decision

For the reasons outlined above, I don't uphold Mr H's complaint about RAC Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 6 November 2023.

Josh Haskey
Ombudsman