

The complaint

Mr H complains that Accredited Insurance (Europe) Limited unfairly declined his claim on a motor insurance policy.

What happened

The subject matter of the claim and the complaint is a car, first registered in September 2016.

Mr H acquired the car in late March 2019. He says it was on four-year PCP (personal contract plan).

Mr H was living in a village from where he commuted to work. For the year from August 2022, Mr H had the car insured on a comprehensive policy. Accredited was the insurance company that was responsible for dealing with any claim.

Unfortunately, Mr H reported to Accredited that on 1 January 2023, he had driven into standing water and the car's engine had stopped and wouldn't re-start.

On about 9 January 2023, Accredited did a telephone interview with Mr H.

On about 11 January 2023 Accredited declined the claim. It referred to failure to safeguard the vehicle and to exclusion of any deliberate damage by Mr H.

Mr H complained to Accredited that it should pay the claim.

By a final response dated early February 2023, Accredited turned down the complaint.

Mr H brought this complaint to us in mid-March 2023.

our investigator's opinion

Our investigator recommended that the complaint should be upheld. He didn't think that the exclusion was relevant. He said that Mr H did take reasonable steps prior to driving through the water. The investigator recommended that Accredited should assess the claim again and, if no further exclusions are applicable, pay the claim in full.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr H and to Accredited on 12 September 2023. I summarise my findings:

Accredited should've met the claim rather than declining it.

It may be that the car is a total loss.

Mr H was offended by Accredited's suggestion that he'd deliberately damaged his own car.

For most of this year 2023, he has had to live with the financial worry and sense of unfairness caused by a decision by Accredited that I'd found unfair.

Subject to any further information from Mr H or from Accredited, my provisional decision was to uphold this complaint in part. I intended to direct Accredited Insurance (Europe) Limited to:

1. meet Mr H's claim in line with the policy terms save that it shall not rely on the exclusion and general condition referred to in this decision; and
2. pay simple interest at a yearly rate of 8% on any payment it makes to Mr H in settlement of his claim. If Accredited considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr H how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
3. pay Mr H £300.00 for distress and inconvenience.

Mr H and Accredited each accepts the provisional decision. So I see no reason to change my view.

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.

From its MOT history, I see that the car passed an MOT test in mid-November 2022 with a recorded mileage of about 46,000.

The policy covered accidental damage to the car.

The policy didn't cover loss of use of the car. And the policy said that Accredited would provide a courtesy car only if another driver caused the accidental damage.

In its final response, Accredited referred to an exclusion of any deliberate damage by Mr H. The general exclusion I've seen in the policy booklet is wider than that. It excludes any claim from an incident resulting from something the insured had deliberately done or failed to do.

In its final response, Accredited also referred to the general conditions which Mr H had to keep to (otherwise Accredited might refuse or reduce any claim). The conditions included one that he would protect his car from loss or damage.

Notwithstanding such policy terms, I don't find it reasonable for Accredited to decline Mr H's claim unless his driving was worse than careless. After all, comprehensive policies are intended to cover the driver for the risk of carelessly damaging their own car.

I don't find it reasonable for Accredited to decline Mr H's claim unless his driving had reached the point of recklessness.

Mr H said that he saw two vehicles ahead of him drive through the water. He later said they were 4x4 vehicles. But I haven't seen enough evidence to show that the road was closed due to flooding.

With hindsight, Mr H would've turned back. But it was a narrow road. Mr H said that he reduced his speed.

Mr H said that he assessed the depth of the water as two or three inches. I accept that Mr H mis-judged the depth of the water on the road. After the car stopped and he got out, he found that the water was deeper than he had thought.

However, I don't find that Mr H was reckless about driving through the water. It follows that I don't find that Accredited treated him fairly by declining his claim.

When he filled in our complaint form in mid-March 2023, Mr H said the car had been worth over £7,000.00 and he would have to pay over £3,500.00 as the final settlement figure for his PCP. He also said that he was seeking finance for a replacement vehicle and had incurred car hire costs.

I find it likely that Mr H settled the PCP in late March 2023, when the four years expired. He later said he had decided not to sell the car pending our decision.

From a DVLA vehicle check, I see that Mr H made a statutory off-road notification and the most recent V5 was in March 2019. So I accept that he still has the damaged car but hasn't repaired it or been able to use it.

I would expect Accredited to take about a month to settle a total loss claim and longer if it decided to repair the car. In the meantime Accredited wouldn't have had to provide a courtesy car as the accident only involved Mr H and no other driver.

I haven't seen enough evidence to show when Mr H incurred car hire costs or when he acquired a replacement vehicle. So I don't find it fair and reasonable to direct Accredited to pay Mr H compensation for hire costs or loss of use of a car.

Putting things right

I will direct Accredited to meet Mr H's claim in line with the policy terms save that it shall not rely on the exclusion and general condition referred to in this decision.

I consider that Accredited should've met the claim rather than declining it. And it may be that the car is a total loss. So I find it fair and reasonable to direct Accredited to add interest at our usual rate on any payment it makes to Mr H in settlement of his claim.

I accept Mr H's statement that he was offended by Accredited's suggestion that he'd deliberately damaged his own car. For most of this year 2023, he has had to live with the financial worry and sense of unfairness caused by a decision by Accredited that I've found unfair.

Accredited has done nothing to mitigate that, even after the investigator's opinion. So I find it fair and reasonable to direct Accredited to pay Mr H £300.00 for distress and inconvenience.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint. I direct Accredited Insurance (Europe) Limited to:

1. meet Mr H's claim in line with the policy terms save that it shall not rely on the exclusion and general condition referred to in this decision; and

2. pay simple interest at a yearly rate of 8% on any payment it makes to Mr H in settlement of his claim for the period from 1 February 2023 to the date of such payment. If Accredited considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr H how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
3. pay Mr H £300.00 for distress and inconvenience.

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.

Christopher Gilbert

Ombudsman