

The complaint

Mr H complains about how his insurer, U K Insurance Limited trading as Green Flag (UKI) dealt with a claim under his breakdown insurance policy.

References to UKI in this decision include their agents.

What happened

In September 2023 Mr H's vehicle broke down. He called UK, who sent an engineer to attend. From his diagnostic equipment, the engineer told Mr H he was 90% sure the issue was with a mass airflow sensor. The engineer was able to get the vehicle running and advised Mr H it was ok to drive back home slowly and call the garage – though Mr H said he was told it was ok to drive to the nearest garage, some 10 miles away.

Mr H drove home and then to the garage three days later (as this was the first available time the garage could look at his vehicle). However, when Mr H was close to the garage, smoke started coming out of the exhaust. The garage said the vehicle should have been recovered to them, rather than driven.

The garage inspected the vehicle and said they thought the issue was with the Exhaust Gas Recirculation (EGR) valve, which had started to collapse and drawn into the engine's turbo when being driven. They said there was damage to an impellor in the turbo. This meant the vehicle needed a replacement turbo, EGR valve, oil and oil filter, at a cost of £1,269.60.

Mr H contacted UKI to tell them what happened and the damage to his vehicle. UKI said because the garage didn't take photographs of the damaged turbo and EGR valve, their technical team weren't able to inspect them. UKI said the garage informed them Mr H told them the vehicle had been coasting whilst driven to them, with smoke being present.

UKI said this meant that as the vehicle wasn't smoking at the time the engineer attended, then the fault developed subsequently. They said Mr H should have told them about the symptoms that arose when driving to the garage – but he didn't do so and continued driving. So, they weren't liable for the damage.

Mr H wasn't happy with UKI's position, so he complained. UKI didn't uphold the complaint. In their final response they referred to the sequence of events, concluding the engineer could only assess Mr H's vehicle at the time they attended and advise accordingly. They confirmed their view they weren't responsible for the damage to Mr H's vehicle.

Mr H then complained to this Service. He was unhappy at what had happened, saying he'd been advised it was ok to drive his vehicle to the garage. He thought this meant UKI were responsible for the subsequent damage to his vehicle. He wanted UKI to reimburse the cost of the repairs.

Our investigator upheld the complaint, concluding UKI hadn't acted fairly. While UKI weren't able to inspect the damaged parts or see any photographs, the garage had inspected the vehicle and concluded the EGR valve collapsing had triggered the fault code for the airflow

sensor and subsequently damaged the turbo when the vehicle was being driven. He thought it likely there was already an issue with the EGR when the engineer attended Mr H's vehicle. UKI said the issue was common, but the investigator thought the engineer didn't seem to consider the potential issue - if they had, it would have been reasonable to advise the vehicle be recovered to the garage (so avoiding the damage).

The investigator thought UKI should pay for the cost of the replacement turbo - but not the EGR valve as it had already started to collapse at the time of the breakdown – and half the cost of labour, oil and oil filter (£679.80) plus interest from the date Mr H paid the invoice. The investigator also thought UKI should pay Mr H £150 for distress and inconvenience.

UKI disagreed with the investigator's view and asked that an ombudsman review the complaint. Their engineer said that while EGR valve and turbo failures were common to the make and model of Mr H's vehicle, failures weren't common in the manner described by the garage. Turbo failures arose from lack of proper lubrication due to poor servicing or from carbon build-up in the engine due to poor design. This could cause the impellor in the turbo (which the garage said was damaged) to have excessive play. This would cause damage to the impellor as it would be rubbing against the sides of the turbo. This was one reason UKI requested pictures of the damaged turbo, as the issue could lead to low airflow, causing the airflow fault code to be indicated.

The engineer also said it wasn't common for EGR valves to break up and collapsing in the way described by the garage (a further reason for requesting photographs of the damaged valve). EGR failure was normally due to carbon build-up, preventing the valve from fully sealing, allowing exhaust gas to pass through, producing the same fault code. This would reduce engine power, but not produce excess smoke. It would also be possible to drive the vehicle a short distance (to Mr H's home, or to the garage). It was also possible the EGR valve had jammed open, preventing the engine burning fuel. This wouldn't be a turbo issue. They thought the turbo was damaged by something impacting it (such as a part from the EGR valve). Simply replacing the turbo without stripping the intake and EGR valve system would result in damage to the new turbo.

The engineer thought the garage may have not taken photographs (or retained the damaged parts) as this may have indicated misdiagnosis of the problem and the turbo didn't need replacing. Without photographs, it couldn't be confirmed the damage was UKI's responsibility. The engineer added that the nature of attending a breakdown meant the attending engineer couldn't make as full a diagnosis as a garage could. The attending engineer may not have had the degree of experience to recognise the common faults with the EGR valve and turbo.

UKI also thought the symptoms Mr H's vehicle exhibited when arriving at the garage differed from those when the engineer attended the vehicle, which meant the garage could only provide advice (diagnosis) at the point the vehicle arrived with them. And Mr H should have called UKI back when the symptoms displayed by his vehicle changed. So, driving on was their decision when the symptoms changed.

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.

My role here is to decide whether UKI have acted fairly towards Mr H.

The key issue in Mr H's complaint is the damage to his vehicle following the breakdown. He says he was advised by UKI's attending engineer it was fine to drive the vehicle carefully for

a short distance (to his home and/or a garage). So, the resulting damage was UKI's responsibility. UKI say the damage wasn't their responsibility and occurred after they attended the breakdown. They also question the repairing garage's version of the damage and its cause, setting out a number of alternative possibilities in their response to our investigator's view. They also question Mr H continuing to drive the vehicle after the symptoms he experienced (while driving to the garage).

In considering this case, I've noted the sequence of events from the initial breakdown and UKI's attendance through to the damage that arose between that time and Mr H driving to the garage a few days later. It's clear there is a difference of opinion between Mr H and UKI, as well as between the garage's diagnosis of the issues and the views of UKI's technical engineer. Given these differences, I've had to decide, on the balance of probabilities, which is the more persuasive given the available evidence and information.

Given the difference of opinion about the damage and its likely cause, I've considered the views of the garage and UKI's engineer (the latter set out earlier). The invoice for the repairs from the garage includes the following narrative:

"EM / SMOKING / WON'T REV

*C/read: P0103 intake air volume
P2566 turbocharger adjustment*

Codes clear but return, unable to test drive due to smoking and no revs. Check and inspect turbocharger, turbocharger shows damage to impellor. Supply and fit a new turbo, oil and filter. Vehicle no longer smokes and now revs up but has a major judder at certain rpms and a lack of power.

Fault code for air intake returns.. Fault to a collapsed EGR valve. Supply and fit an EGR valve, test drive ok.

Customer advises that a breakdown service had been out to the vehicle and advised that it was ok to drive. We suspect that the EGR valve had started to collapse and as a result of continuing to drive part of it has been drawn into the turbo resulting in damage to the turbo."

Taking this statement along with the statements from UKI and their technical engineer, I have to decide what I think most likely to have happened. What is clear is there was a fault with Mr H's vehicle which caused it to break down and his call to UKI. The attending engineer diagnosed (90% sure) the issue was with a mass airflow sensor. Looking at UKI's case notes, there's a comment from their engineer that – as well as EGR valve and turbo failures being common - both failures would 'set airflow codes'. As the garage subsequently diagnosed both a damaged turbo (from an impact) and a collapsed EGR valve, then it seems likely that one -or both – were present, at least to a degree at the time of the initial breakdown.

The comments from the garage and UKI's technical engineer, set out above, both indicate the most likely cause of the turbo failure was an impact from part of the EGR valve. Which suggests the initial problem that caused the breakdown wasn't the turbo itself, but the EGR valve. It doesn't suggest there was an initial problem with *both* the EGR valve and the turbo, rather the problem with the former led to the damage to the latter.

UKI's engineer questions the diagnosis of the garage, providing alternative potential causes of the damage. I recognise in the absence of the retention of the parts and photographs of the damaged parts, it wouldn't have been possible for the engineer to arrive at a more definitive view, so his views will necessarily be based on what Mr H and the garage said.

And while the engineer says the way the ER is said by the garage to break up isn't common, that doesn't mean it couldn't have happened, given that the garage examined the vehicle and came to their conclusion.

I've then considered Mr H continuing to drive the vehicle, first back home and then to the garage. What isn't disputed is that the engineer advised he could drive the vehicle home, or to the garage, if done slowly. And that problems arose as he neared the garage – although there is some dispute as to exactly what happened during the journey and the nature of the symptoms. However, having been advised he could drive the vehicle (carefully) I don't think it was unreasonable for Mr H to follow the advice and drive the vehicle (first to home and then the garage). From what I've seen, it appears the issue with his vehicle arose on the journey from his home to the garage, not from the breakdown location to home.

Given this, I don't think it unreasonable for him to think he could also drive to the garage. While disputed, it seems the issue only became most obvious a very short distance from the garage, I don't think he acted unreasonably – or recklessly, which is what we consider when considering a consumer's actions. While the symptoms on the journey to the garage may have differed from those that arose before the initial breakdown, I don't think it reasonable to conclude Mr H should have been able to distinguish them to the extent he should have stopped and called out UKI again.

On UKI's suggestion the garage may have not taken photographs (or retained the damaged parts) as this may have indicated misdiagnosis of the problem and the turbo didn't need replacing, I haven't seen any evidence to support this suggestion. There's a note in UKI's case notes of a call they made to the garage, which states the garage told UKI they disposed of the parts as they weren't aware UKI would need them retained (or photographs). But the note states the garage told UKI the impellor was broken.

Based on the limited evidence available, I don't think it leads to the conclusion the garage disposed of the parts (and didn't take photographs) to avoid the conclusion they misdiagnosed the issues that caused the damage to Mr H's vehicle. And as UKI said in their response to our investigator's view, the garage would have had the diagnostic equipment to make a fuller assessment than the attending engineer as the time of the breakdown.

Taking all these points into account, on the balance of probabilities and the evidence and information available, I'm more persuaded the damage to the turbo was caused by the EGR valve while Mr H was driving the vehicle to the garage. And as I think it wasn't unreasonable for him to do so, given the advice he'd had from the attending engineer, then I think it's fair and reasonable to conclude the turbo damage arose from Mr H following the advice given, so UKI haven't acted fairly towards Mr H in this respect.

However, as I think it likely there was an issue with the EGR valve at the time of the breakdown, which then caused the damage to the turbo, I don't think it's reasonable to hold UKI responsible for the failure of the valve.

Taking these points together, in terms of what UKI should do to put things right, I think they should reimburse the cost of the replacement turbo – but not the EGR valve. The garage invoice lists the costs of these parts separately but doesn't break down the labour element between the replacement of the two parts. And there is a separate charge for oil and oil filter. As two principal parts were replaced, I think the simplest and fairest way to attribute these other costs is to apportion them in the ratio 50:50. That is, UKI should reimburse 50% of these other costs in addition to the cost of the turbo itself. By my calculation, that comes to £679.80 (including VAT).

As Mr H has paid the invoice, UKI should add interest on this amount, at a rate of 8% simple, from the date Mr H paid the invoice to the date they reimburse him.

I've also considered the distress and inconvenience caused to Mr H from what's happened in this case, given my conclusion UKI haven't acted fairly. Considering all the circumstances of the case, I think £150 for distress and inconvenience would be fair and reasonable.

My final decision

For the reasons set out above, I uphold Mr H's complaint. I require U K Insurance Limited trading as Green Flag to:

- Reimburse the cost of the replacement turbo and 50% of the other costs for labour, oil and oil filter (a total of £679.80 including VAT)
- Pay interest on the amount, at a rate of 8% simple, from the date Mr H paid the invoice to the date they reimburse him.
- Pay Mr H £150 in compensation for distress and inconvenience.

U K Insurance Limited trading as Green Flag must pay the compensation within 28 days of the date on which we tell them Mr H accepts my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 April 2024.

Paul King
Ombudsman