

The complaint

Mr P complains Accredited Insurance (Europe) Ltd (“Accredited”) declined his claim on his motor insurance policy unfairly.

Any reference to Accredited includes its agents.

What happened

Mr P held a comprehensive motor insurance policy effective from September 2022. In January 2023, he was involved in a car accident. He says the third-party driver was intoxicated and caused the collision. Following the incident, Mr P says he was very shaken. So he walked to a nearby shop where he purchased and drunk alcohol to calm his nerves.

The police attended the incident and asked Mr P to perform a roadside breath test. The reading of the test was around 80 micrograms of alcohol per 100ml of breath which is more than the legal limit for driving a vehicle so Mr P was arrested. Mr P was later charged with not providing a further specimen of blood, breath or urine whilst in custody.

Mr P made a claim on his motor insurance policy for the damage caused to his car during the incident. Accredited declined the claim as it said it was excluded under the terms of the policy. It pointed to section 17.3 of the terms which relate to drink and drugs.

Mr P raised a complaint as he didn’t accept what Accredited had said. He said the breathalyser test result was unreliable because he’d drunk alcohol shortly before but after the incident had occurred. He also said he didn’t refuse to provide a sample whilst in custody but he wasn’t ready to do so when the police asked him to. And at the point he was ready, the police wouldn’t let him. Mr P highlighted his Court hearing hadn’t yet happened, so he didn’t think Accredited should have declined his claim in the meantime.

In its final response letter, Accredited said the policy terms don’t require the driver to have been convicted at Court for the claim to be declined. Mr P remained unhappy, so he asked our service to look into things. He provided a video of the police setting up the breathalyser test to show it wasn’t reliable and witness statements to support his version of events.

Our Investigator didn’t uphold the complaint. She thought Accredited had fairly relied on the police report as evidence of what had happened to decline the claim. She accepted the accuracy of roadside breath tests usually require a degree of tolerance. But, considering Mr P’s reading was more than twice over the legal limit of alcohol per 100ml of breath, she was satisfied it was more likely he was over the limit. Mr P didn’t accept our investigator’s opinion so the complaint’s been passed to me to decide.

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.

Based on what I've seen, I don't uphold Mr P's complaint, I know he'll be disappointed. I'll explain why.

The terms of Mr P's policy say, in summary, Accredited won't cover damage if the driver was found to be over the prescribed limit for alcohol; is driving unfit through drink or drugs; or fails to provide a sample of breath, blood or urine without lawful reason.

The police report from the day after the incident says Mr P had 82 micrograms of alcohol per 100ml of breath when tested at the roadside – which is more than twice over the prescribed limit for alcohol. And I can see the police found this information sufficiently reliable at the time to arrest him. I appreciate Mr P has said he wasn't over the legal limit while he was driving but the reading was high because he'd drunk alcohol afterwards. But from what he's said, it seems the police were aware of this and still relied on the results to arrest him for being over the limit. In any event, the policy terms say drivers won't be covered if they are found to be over the limit for alcohol and, for whatever reason, Mr P was when tested. So I think it's reasonable for Accredited to have relied on this information.

I know Mr P questions how accurate the breathalyser test was, particularly as he says the officer struggled to use it at the time. And he's given us a video to support this. But I haven't seen enough evidence to make me think it was faulty. In any event, considering Mr P's breathalyser results far exceeded the limit, I'm satisfied even if there was a degree of inaccuracy, it's more likely he was over the limit.

I appreciate Mr P has pointed out that he hasn't been convicted in Court. But having looked carefully at the policy terms, I don't think there's any requirement for him to have been convicted for the claim to be declined. So I think Accredited has acted in line with the policy terms in this case.

Accredited has also relied on Mr P not providing a specimen when in custody to decline his claim. Mr P says he just needed more time to provide the sample and hadn't refused to do so. As I'm satisfied Accredited fairly declined the claim on the basis of Mr P being over the limit, I don't think this makes a difference here. But in any event, whilst Mr P might've intended to provide the sample, he didn't when asked and he was charged for not doing so without lawful reason. As the policy terms say claims won't be covered in that situation, I'm satisfied Accredited has declined the claim fairly.

My final decision

It's my decision that I don't uphold Mr P's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 31 October 2023.

Nadya Neve

Ombudsman