

## The complaint

Mr B complains that MCE Insurance Company Limited mishandled his claim on a motorcycle insurance policy.

## What happened

From May 2020, Mr B had a motorbike insured on a comprehensive policy under which MCE was responsible for dealing with claims.

Unfortunately, his motorbike was damaged in an accident on about 12 July 2020. After he made a claim to MCE, it arranged collection of the bike on 12 August 2020.

Following inspection of the bike, MCE said the bike was a write-off of category N. MCE offered Mr B its pre-accident valuation of the bike. He accepted, but he asked how he could get back the following three items:

- top box
- luggage rack insert (to accommodate the top box)
- fender extender

In mid-September 2020, MCE responded that the items couldn't be removed as they weren't personal items. Mr B complained to us straight away about the three items. We referred his complaint to MCE. By a final response dated 12 November 2020, MCE quoted extracts from the policy terms and turned down the complaint. (It also turned down another complaint about his motorcycle leathers and helmet).

### *our investigator's opinion*

Our investigator recommended that the complaint about the three items should be upheld. She thought that each item was designed to be removed which Mr B would've done if he'd been given the opportunity - or thought he wouldn't get the motorbike back. She said MCE had misunderstood Mr B's request for the items – MCE responded as if he'd made it part of his insurance claim. Mr B will be potentially left out of pocket when he has to replace them.

The investigator recommended that MCE should:

1. give Mr B back his property;
2. if they've been disposed of, MCE need to provide evidence of how it happened and when it was;
3. if the items can't be returned, MCE needs to pay Mr B the amount it will cost to replace them:

- Mr B to provide invoice details to MCE for the cost of replacing the items.

- MCE to pay Mr B the cost of replacing the items.

4. MCE to compensate Mr B £150.00 for inconvenience of having to handle his complaint and source the replacements if they're not returned to him.

#### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mr B and to MCE on 12 May 2021. I summarise my findings:

As each of the three items were within the policy definitions of accessories or modifications, the policy said that MCE wouldn't return them. For that reason, I wasn't minded to find that MCE treated Mr B unfairly by not tracking down the three items and returning them to him.

Subject to any further information from Mr B or from MCE, my provisional decision was that I didn't uphold this complaint. I didn't intend to direct MCE Insurance Company Limited to do any more in response to this complaint.

Mr B disagrees with the provisional decision. He says, in summary, that:

- When the motorcycle was taken by MCE for repair/assessment, he did not know he would not be getting it back, as the damage was relatively minimal. He assumed it would be repaired and not written off (he still holds that view).
- As soon as he was made aware it would be written off, he asked for the 3 items to be returned. He realises that two of the items would require tools to remove, but the top box simply unclips from the bike.
- He would've been willing to pay the cost of sending the top box back to him, instead they fobbed him off with excuses as to why it couldn't be removed from the bike. Eventually they said it wasn't a "personal" item and therefore refused to return it.
- The fact that accessories aren't covered by the policy is irrelevant, as he wasn't asking MCE to include the cost in their assessment, nor did they. All he wanted was the return of his uninsured property. He doesn't think that's unreasonable.

#### **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 April 2020, the bike insured on the policy was a bike that had first been registered in 2011. From May 2020, Mr B changed the bike on the policy for a bike that had first been registered in 2018.

The policy provided a definition as follows:

#### ***"Accessories***

*Additional or supplementary parts of **your motorcycle** not directly related to its function as a **motorcycle**, limited to manufacturers fitted audio equipment, luggage racks, safety bars, top boxes, tank bags and other luggage carriers which are fitted to **your motorcycle**."*

That definition doesn't include all additional parts not directly related to the function as a

motorcycle. The phrase “*limited to*” limits “*accessories*” to “*manufacturers fitted audio equipment, luggage racks, safety bars, top boxes, tank bags and other luggage carriers.*”

The policy provided another definition as follows:

**“Modifications**

*Where a change has been made to the manufacturer’s factory fitted standard specification. Manufacturers optional extras are not classified as a **modification** if they have been declared and **we** have agreed to arrange cover for them.”*

The policy provided another definition as follows:

**“Personal Effects**

*Portable items that you normally wear, use or carry with you when you leave your home. **This does not include accessories or modifications on your bike.**”*

So there was a clear distinction between personal effects and accessories or modifications.

The policy provided as follows:

**‘Section 1 - Loss or damage  
What Is Covered?’**

*...  
This cover does not apply to accessories or modifications.  
If accessories and modifications are fitted to **your** vehicle, **we** cannot return these after any type of loss.”*

The policy also provided as follows:

**‘Exceptions to Section 1 of your policy  
Your policy does not cover the following:**

*...  
5. Loss of/or damage to accessories, spare parts or any modifications made to **your motorcycle.**”*

So the policy didn’t cover loss or damage to accessories or modifications. And – crucially - the policy said that - after any type of loss - MCE wouldn’t return any accessories and modifications fitted to the bike.

After the accident, a few weeks passed before Mr B made a claim to MCE. By a standard letter dated 10 August 2020, MCE said it would take the bike to storage for an inspection to assess whether it would be repaired or declared a total loss. The letter asked for documents and keys. But it didn’t say anything about removing any items from the bike.

A couple of days later, MCE sent someone to collect the bike. In his later complaint form to us, Mr B said the following:

*“I asked the person collecting the bike if it was ok to leave the topbox on the bike and he said yes.”*

I have no reason to doubt what Mr B said. But I don’t consider that the collection driver said anything inappropriate – or that Mr B could reasonably rely on the collection driver for advice about the top box.

I accept that Mr B was expecting MCE to repair the motorbike and return it to him with the

three items attached.

MCE assessed the bike as it was. I accept that its pre-accident valuation (and figure for the salvage option) took account of the items still attached to the bike.

By an email dated 21 August 2020, MCE offered Mr B its pre-accident market valuation of the bike (less a policy excess). It also offered him a figure for a salvage deduction if he wished to keep the damaged bike.

Later that day, Mr B replied to MCE, asking it a number of questions. One of his questions was how he could get back the top box and insert.

By an email dated 25 August 2020, Mr B accepted the valuation and said he didn't want to keep the damaged bike. But he referred to his earlier email and requested the return of the three items including the fender extender. I consider that – by that stage – Mr B had accepted that the bike was a write-off – and he didn't want to salvage it and pay for repair.

By an email dated 17 September 2020, MCE said the items weren't classed as personal and couldn't be removed.

I accept that the three items were easy to remove from the bike. But I'm in no doubt that the top box was an accessory as defined in the policy. The same probably applies to the luggage rack insert – insofar as it was part of the top box or other luggage carrier. But if the insert wasn't an accessory then it must've been within the policy definition of a modification.

The fender extender wasn't an accessory within the limited definition in the policy. But Mr B has said it was an extension to a mud guard. So I find that it was within the policy definition of a modification.

As each of the three items were within the policy definitions of accessories or modifications, the policy said that MCE wouldn't return them after any type of loss. For that reason, I don't find that MCE treated Mr B unfairly by not tracking down the three items and returning them to him.

And I don't find it fair and reasonable to direct MCE to compensate Mr B for their loss or for their replacement or for his inconvenience.

### **My final decision**

For the reasons I've explained, my final decision is that I don't uphold this complaint. I don't direct MCE Insurance Company Limited to do any more in response to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 July 2021.

Christopher Gilbert  
**Ombudsman**