

The complaint

Mr G complains that MCE Insurance Company Limited (MCE) has refused to pay the storage costs incurred to store his motorcycle following it rejecting a claim that it later accepted under his motorcycle policy.

What happened

Mr G's motorcycle was stolen in May 2018, he made a claim under his motorcycle insurance policy. MCE initially accepted the claim and made an offer to settle it, but Mr G wasn't happy with the settlement offer and so disputed it.

While the settlement amount was in dispute Mr G's motorcycle was recovered with general damage to it and MCE declined the claim, as it said on inspection it believed the steering lock wasn't engaged at the time of the theft.

Mr G brought a complaint about MCE's rejection of the claim to this service. On 5 December 2018 MCE sent an email to Mr G it said:

Morning. No contact has been received by the transport team despite several calls texts and emails. The bike has now been moved to the disposal process and you will be contacted by the abandonment team to advise of disposal.

Mr G replied to this email saying he had not received any calls texts or emails. This was followed by another email from MCE on the 7 December 2018 saying:

*Morning.
All contact via email was to the email address in which you have replied to. Call or MCE arrange the return is free storage ended.*

Following this the motorcycle was returned to Mr G.

An Ombudsman issued a final decision on Mr G's complaint about the rejection of his claim on 10 December 2020, instructing MCE to settle the claim.

Based on the recommendations in the Ombudsman's final decision, MCE offered a settlement to Mr G. Mr G then informed MCE that since it had returned the motorcycle to him it had been in storage incurring costs of £100 per month. Mr G asked MCE to pay these costs, it declined. And so, Mr G made a complaint – he said he didn't want to settle the claim and relinquish the bike to MCE unless the storage costs were settled.

MCE said it was not responsible for the storage. It said it was not obliged to purchase the salvage of a vehicle and as Mr G didn't want to release the motorcycle to MCE it would be settling Mr G's claim on the basis of him retaining the salvage. But it would, as a gesture of goodwill, reduce the salvage costs to 25% of the value of the motorcycle instead of its usual 40%.

Mr G was unhappy with this resolution and so referred his complaint to this service.

Our investigator upheld Mr G's complaint. In summary he said:

- The storage costs were a direct result of MCE unfairly declining Mr G's claim.
- MCE's free storage had ended in December 2018, and it, by returning the bike to Mr G while his complaint here was ongoing, had transferred those storage costs to him.
- Mr G was unable to store his bike on the street because of the damage it had incurred and so he had no choice but to place it in storage.
- MCE did have an obligation to purchase the salvage of the vehicle as per its terms and conditions which state the following:

"If your motorcycle is considered to be a total loss and the insurance policy covers a single vehicle it will end when you accept our offer. The maximum amount we will pay will be the claim value of your motorcycle immediately prior to the loss.

If you are paying your premium by instalments under credit agreement the outstanding premium will be deducted from your total loss settlement. Your motorcycle then becomes our property"

- To put things right MCE should either pay for Mr G's motorcycle to be released from storage or pay Mr G directly once he provides an invoice for the costs. MCE should then collect the motorcycle and settle the claim as previously instructed.

MCE disagreed with the investigator's findings, it said Mr G did not inform MCE that the vehicle was in storage until March 2021 and therefore it had not had the opportunity to mitigate storage costs by collecting the bike while his previous complaint was ongoing.

It said it had recently taken steps to attempt to mitigate storage charges whilst this current complaint was ongoing however Mr G had not yet provided the required information for it to collect the motorcycle.

It has provided evidence to show it contacted Mr G on 28 June and 1 July asking to arrange collection of the motorcycle. Mr G responded on 8 July asking for confirmation that MCE wouldn't start charging him for storage and that the motorcycle would be returned to him free of charge if his complaint wasn't settled in his favour. MCE responded to this by email on 13 July asking for the address of the storage facility so it could arrange collection. It also said that if Mr G didn't progress his claim it may follow its abandonment process and charges could occur at that point but that it would return the motorcycle to him free of charge if he chose it to do so.

The matter was passed to me to decide. I issued my provisional findings on 6 October 2021, I agreed with the investigator that the Mr G's case should be upheld but gave an amended redress to reflect MCE's attempts to mitigate the rising storage costs. In my provisional findings I said:

The emails from MCE to Mr G on 5 and 7 December 2018 really gave him no choice but to accept the return of the motorcycle from MCE. The emails made clear to him that if he didn't the disposal process would be started, as free storage had ended.

MCE was aware that Mr G's complaint, regarding it declining his claim, was ongoing with this service - it could have chosen to store the motorcycle until the complaint process was completed. But as it didn't do this the responsibility of the safekeeping of the motorcycle, while the complaint was being dealt with, transferred to Mr G.

Mr G, rightly, didn't dispose of his motorcycle, even though it was damaged, as it was

subject to the ongoing claim dispute. And so, in order to retain it he had to store it. He has said he had no alternative but to place the motorcycle into paid storage, as he didn't have anywhere to keep it and the damage it had suffered, as a result of the theft, meant it was unsafe to leave it on the street. I've seen no evidence to suggest otherwise and so I accept this is the case.

In the previously issued decision, the ombudsman decided that MCE had acted unfairly in declining Mr G's claim. But for this there would have been no storage fees and so I can't fairly say that Mr G should be responsible for them.

Mr G has said the storage costs are accruing at £100 per month. MCE has evidenced with the emails detailed above that it has tried to mitigate these costs in trying to arrange to collect the motorcycle, but that Mr G has stopped responding. Because of this I don't think it's fair to ask MCE to cover all of the storage costs. Mr G's last response to MCE was on 8 July 2021 where he confirmed the storage costs to date was £2,900. I think it's reasonable that MCE should cover the costs until that date, and any costs beyond then should be met by Mr G.

In order for MCE to cover the costs, Mr G should provide evidence of the costs, by way of invoice or similar. As well as this he should provide the details for MCE to be able to arrange collection, so the claim can be progressed to settlement. Upon settlement of the claim the motorcycle will become the property of MCE in line with the terms and conditions of the policy.

MCE should pay the storage company directly unless Mr G has already done so, in which case he will need to show evidence of this to MCE so it can pay him directly. If Mr G has already made payment, then MCE should add 8% simple interest to any payments he has made from the date he has made them until the date it pays him.

To put things right MCE should:

- Pay, either directly to the storage company or to Mr G, based on the conditions above, £2,900 for the storage costs incurred up to and including 8 July 2021.*
- If Mr G is able to evidence that he has already made the payments MCE should add 8% simple interest from the date Mr G paid the costs until the date it pays him.*

I invited both parties to respond.

Mr G responded saying he had no further points to make.

MCE also responded in summary it said:

- It was unaware the motorcycle was in storage until March 2021 and had it known it could have taken action earlier to mitigate the costs.*
- Mr G had still not provided it with any evidence of storage costs*

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 have to tell MCE its comments haven't changed things for me, I'll explain.

As I explained in my provisional findings MCE told Mr G in emails in December 2018 that free storage had ended and so the motorcycle needed to be returned to him or would be

disposed of. Given this, I can see why Mr G didn't think to tell MCE storage cost were being incurred, as he wouldn't have been aware there was an option for free storage with MCE while his dispute was being settled.

In its business file submission to this service MCE said it became aware of the storage costs in December 2020, but it made no attempt until, its email to Mr G, in June 2021 to mitigate these. So, I'm not persuaded even if Mr G had told MCE earlier that it would have collected the motorcycle to mitigate the costs. As such my decision remains unchanged in that MCE should cover the storage costs up to 8 July 2021 on receipt of evidence, of them, from Mr G.

I should point out that if Mr G is unable to provide evidence to show storage cost are owing or have already been paid then MCE will not have to make a payment towards storage costs. Mr G should now engage with MCE to allow it to collect the motorcycle and settle his claim, as it was instructed to in the final decision issued, by this service, on 10 December 2020.

Putting things right

To put things right here MCE should now;

- Pay, either directly to the storage company or to Mr G, based on the conditions above, £2,900 for the storage costs incurred up to and including 8 July 2021.
- If Mr G is able to evidence that he has already made the payments MCE should add 8% simple interest from the date Mr G paid the costs until the date it pays him.

My final decision

For the reasons set out above, my final decision is that I uphold Mr G's complaint about MCE Insurance Company Limited and now require it to:

- Pay, either directly to the storage company or to Mr G, based on the conditions above, £2,900 for the storage costs incurred up to and including 8 July 2021.
- If Mr G is able to evidence that he has already made the payments MCE should add 8% simple interest from the date Mr G paid the costs until the date it pays him.

†Her Majesty's Revenue & Customs may require that MCE deduct tax from the interest paid to Mr G. If it does and Mr G requests it, MCE must provide him with a certificate showing how much tax it has taken off, so he may reclaim it if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 November 2021.

Amber Mortimer
Ombudsman