

The complaint

Mr R complains that U K Insurance Limited (“UKI”) has unfairly handled a claim under his motor insurance policy.

Any reference to Mr R or UKI includes respective agents or representatives.

What happened

The background of this complaint is well known to both parties, so I’ve summarised events.

- Mr R’s vehicle was damaged. He said this was due to negligence on the behalf of a local council who he said had failed to maintain its roads.
- Mr R says the vehicle requires around £15,000 of repairs. He said UKI had given him conflicting information about whether the car was a total loss, which it has since said it isn’t and it intends to repair it. He said the hire car provided is on a week-to-week basis, which he says meant UKI’s actions have led to him having to call on a weekly basis to arrange extended hire.
- Mr R complained to UKI about its communication, handling of the claim, and decision to repair his car. On 6 September 2023 it issued its final response. Within this it said:
 - UKI’s engineer’s decision was to repair the car. And its policy allows it to decide to either repair or make a payment – which is what it had done. So, it stood by its position that a repair, including a replacement battery, was appropriate and in line with its engineer’s advice.
 - It agreed it had given conflicting information to Mr R about whether the car would be written off – and accepts it had given the false impression that his request to have the car written off would impact UKI’s decision. It also acknowledged it could’ve made the hire vehicle experience easier by contacting the garage itself to extend the period for longer if needed. It also accepted Mr R had struggled to speak to UKI when calling its phoneline – but said it was unable to evidence this. It offered £250 compensation for these mistakes – sending Mr R a cheque.
- Following this Mr R raised a further complaint. He said repairs were delayed due to poor communication on UKI’s part. And as a result, he’d informed the garage (G) due to carry out the repairs that this wasn’t needed as it was to be written off. Since UKI said it would be repaired, G had said a replacement battery was no longer available due to the time that had passed.
- UKI issued a follow up final response letter on 22 September 2023. It said it had spoken to G – and that G had told it Mr R had refused for repairs to go ahead as he wanted the car written off. And G said it never had a battery available at the garage, this would’ve always had to be ordered in. UKI said this refusal to have repairs completed on Mr R’s behalf was against UKI’s authorisation that repairs could go ahead, and that G was since waiting for him to collect his car.
- Mr R says he is, and has been, paying for a car he no longer wants. So, he wants

UKI to write his car off and compensate him for inconvenience. He has also said G has informed him that the cost to repair his car has risen.

- The complaint came to this Service and our investigator was satisfied the offer UKI had made was fair, saying:
 - Mr R's policy allowed UKI the choice to repair replace or cash settle a claim. And, in this case it had selected repair – which was at its discretion. So, while Mr R felt strongly the car should be written off for economical reasons, this wasn't his decision to make. So, she was satisfied its decision to still repair the vehicle was fair. In turn, any delays (until September's final response letters) regarding Mr R's refusal to have the car repaired was not UKI's fault.
 - UKI had given Mr R incorrect information about his car being written off. It had rectified this quickly, but this would've been disappointing for Mr R. She was satisfied its compensation of £250 was fair.

Mr R disagreed and so the matter has been passed to me for an Ombudsman's final decision. Since the assessment, Mr R has since provided evidence he believes demonstrates the valuation UKI made of his vehicle was inaccurate.

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'm not upholding this complaint for similar reasons to our Investigator. I'll explain why.

Communication and claims handling

UKI has agreed it has misinformed Mr R about the settlement of claim. So, I don't need to consider this point further as it isn't in dispute that Mr R was misled about how UKI was going to settle the claim, and that his request of having the car written off wouldn't impact UKI's decision. I have to consider the impact of this mistake on Mr R when determining if UKI's offer of £250 is fair compensation.

Mr R has been clear that he simply doesn't want the car returned to him. He evidently has very strong feelings on this and has explained this at length to both UKI and this Service. So, I can see how disappointing it would've been for him to hear from UKI that he was misinformed, and that the car would be repaired.

I understand Mr R would like UKI to honour its previous assurance to him the car would be written off. But as I'm satisfied this was a mistake, this isn't what I'd consider to be a fair remedy in the circumstances. Taking into account the disappointment and mis-management of expectations Mr R has experienced, I'm satisfied the sum of £250 already awarded is fair and reasonable compensation in the circumstances.

UKI's decision to repair the car

In this case the crux of the dispute arises from UKI's decision to repair Mr R's vehicle. So, I have to consider if UKI has fairly applied its policy terms. These say UKI can choose to either repair, replace, or provide a cash settlement.

These are common terms across policies of this nature. And from these terms its clear to me the decision on how to settle a claim, either by repair, replacement or cash settlement, is at UKI's discretion.

UKI has determined to repair the vehicle. UKI's engineer has said a repair was achievable so this is how it intended to settle the claim. I won't go over its poor communications regarding this again here, but suffice to say I'm satisfied that was a mistake and UKI's intention at the time of its final response letters and before was to repair the car. I've been given no expert opinion or evidence to suggest such a repair isn't possible.

So, on its face, UKI is acting within its policy terms as this decision sits at its own discretion.

In turn I've thought about whether this is fair and reasonable in the circumstances. Mr R has made various arguments as to why he believes the car should be written off. These include the potential repair costs against the total value of the car, suggesting the car should be deemed an economic write off. And he's also made arguments regarding him not being at fault meaning a decision to write off the car would not impact UKI.

I've thought carefully about everything Mr R has put forward. The decision to economically write off the vehicle sits with UKI to make – not Mr R. So, whether or not this was “borderline” as Mr R has said he was told by an engineer, doesn't change my mind.

But in any case, the evidence he's most recently provided about the potential value of the car against up-to-date repair costs hasn't persuaded me to direct UKI to change its position. I say this as I wouldn't consider the sources of his evidence to be the most reliable to establish a car's value. But, even if I thought these were persuasive – which I don't – they overall still sit above the repair costs from the time UKI made its decision to repair the car. I wouldn't be comparing these to the current repair costs (as he's said these have risen over time) as the scope of my decision is about events leading up to the final response letters and not beyond – that is to say the decision UKI made based on the facts at the time.

So, I am satisfied UKI's decision to repair the vehicle was a fair and reasonable one.

Mr R's comments regarding not being at fault for the incident also haven't impacted my decision as this doesn't alter the commercial discretion that sits with UKI – that I wouldn't seek to interfere with given I'm persuaded it has made its decision fairly.

For all of these reasons, I'm satisfied UKI's overall decision to repair the vehicle is fair. So, I won't be directing it to do anything further in regard to the claim as it takes this forward.

UKI has since addressed a separate follow up complaint regarding hire car since September 2023, issues concerning Mr R's belongings within the car being unavailable to him, and communication with the garage. These matters do not fall within the scope of this decision.

My final decision

For the above reasons I'm not upholding this complaint.

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

Jack Baldry
Ombudsman