

The complaint

Mr S, a sole trader, complains about how Admiral Insurance (Gibraltar) Limited have dealt with a claim he made on a commercial van policy.

What happened

At the start of June 2022, Mr S was involved in a non-fault accident. He made a claim to Admiral for the repair of the van. When registering the claim, Mr S explained the bumper was damaged and rubbing on the tyres, there was damage to the headlights and warning lights were illuminated on the dash.

It was initially unclear if the van would be deemed as uneconomical to repair (“a total loss”) so Mr S asked Admiral to review images of the van first. In the meantime, Mr S chose to use the services of a credit hire company to hire a van so he could continue operating his business.

Admiral reviewed the images and called Mr S to confirm it didn’t think the van would be classed as a “total loss “and that it was prepared to send it to a repairer. In this conversation, Mr S explained the van he’d been given through the credit hire company wasn’t suitable for his business. Various options were discussed at that point. It was explained a courtesy van might be available through the repairer, Mr S could use a company Admiral had a commercial relationship with to hire a van at a discount or, Mr S could source his own hired van. With the last two options it was explained to Mr S that the cost of the hire wouldn’t be covered by the policy, but as it was a non-fault claim, this cost could be recovered from the third party at a later date.

Admiral arranged for Mr S’s van to be taken to an approved repairer however there was a delay in that happening. In the meantime, Mr S sent images of the van to the approved repairer for it to assess what repairs were required and he arranged the hire of a suitable van. Mr S’s van was collected for repair at the end of June 2022.

In October 2022 the van was returned to Mr S however there were severe issues with the wheel alignment and the tyres were bald. Mr S returned the van to the repairer. Further repairs were undertaken to the steering rack of the van, and it was eventually returned to him in December 2022.

Mr S asked Admiral to recover the cost of the van hire from the third-party insurer (“TPI”) but it refused to do so, explaining it would be classed as an uninsured loss. So, Mr S would need to do this himself.

Mr S explained he didn’t want to use the services of a solicitor and risk losing a quarter of the costs in fees, so he approached the TPI himself. The TPI refused to cover the costs of the hire saying it had a report on file from Admiral which declared the van as roadworthy. It said it had paid out the costs for van hire incurred through the credit hire company, and it wouldn’t pay for anything further. It did however say that if Admiral confirmed the report was a mistake and the van was not roadworthy, it would consider any further costs Admiral presented.

Mr S complained to Admiral about what had happened. Admiral considered the matter but maintained the cost of van hire was an uninsured loss. It did however recognise that there were delays in repairing the van and responding to Mr S's complaint, so it offered him £150 compensation. Mr S was unhappy with this and brought his complaint to this service.

An investigator initially upheld but then rejected the complaint after receiving further information from Admiral. He explained to Mr S that the cost of hire wasn't covered by the policy so Admiral would not be responsible for covering the cost.

Mr S was unhappy about this and asked for the complaint to be looked at by an ombudsman. He said he understood the initial hire costs through the credit hire company wouldn't be covered. But, said he was told by Admiral, if he chose to hire a van, those costs could be recoverable from the TPI. And that hasn't been the case due to the 'roadworthy' classification reported by Admiral. Mr S reiterated he wanted the costs of van hire he'd incurred returned to him.

My provisional findings

I issued my provisional findings on 19 March 2024 in which I said I intended to uphold the complaint for the following reasons:

- *"I accept that usually, where a courtesy van isn't provided under the policy, costs of hire are treated as an uninsured loss which a policyholder will either have to use a legal service to recover or they will need to approach a TPI directly. Here although I am satisfied Mr S was made aware the costs of the hired van wouldn't be covered by his policy, he was given an assurance the cost was something that could be claimed back from the TPI. No caveats were given with this information, it was presented as a definite. So, I can understand it would have come as a shock to Mr S when the TPI refused to pay them due to the report Admiral had presented.*
- *The report in question, which identified the van as being roadworthy, was completed as a desktop assessment based on images without the van being physically inspected. As it was not collected by the repairer until seven days later. While it is not unusual for desktop assessments to be conducted, this does introduce a risk that not all mechanical repairs are identified.*
- *Mr S did initially say the van could be driven, but he did also report damage to the headlights and that that bumper was hanging down and rubbing on the wheel of the van. So, I would question at that point if the van was in fact road legal.*
- *It was a later identified that the steering rack had been damaged in the collision and required replacement. This again supports the fact there were additional issues with the van which would potentially have meant it was not road legal and therefore not road worthy.*
- *I'm persuaded, it is more likely than not, given all of the repairs were claimed by Admiral as accident-related damage, it is unlikely the desktop assessment of roadworthiness was correct. And as such, Mr S has been prejudiced by this as the TPI has refused his otherwise correctly incurred hire costs.*
- *While I intend to uphold the complaint based on the above reasons, I do also note that the policy explains that where Admiral undertakes a repair, a courtesy van will be provided. The policy says a courtesy van would not be like for like replacement but typically a small car derived van and, that it wouldn't be adapted to any special*

needs of the business. No mention is made that a van will only be provided based on availability. Mr S was only initially supplied with a large, enclosed van through the credit hire company when he drove a smaller van, so this wasn't suitable for his business. Arguably a small car derived van, as mentioned by the policy, would have been more suitable but it appears there were not any available. So, it is arguable, as Admiral were undertaking the repairs, there was a policy requirement for it to provide, or alternatively, cover the cost of, a replacement van where its repairer was unable to provide one.

- Overall, having considered all of the evidence, I intend to uphold this complaint. As Admiral's actions have potentially prejudiced Mr S's position of being able to recover the van hire costs from the TPI, I intend to direct Admiral to pay this amount direct to Mr S. I don't think it is fair or reasonable for him to be without these funds any longer. Admiral, if it chooses to, it can then approach the TPI in its own time and attempt to resolve the matter.*
- I realise this matter has been stressful for Mr S however as his policy is a commercial one and he is trading as a business entity, it itself cannot suffer distress so I won't be making a payment of compensation for this. Admiral offered £150 compensation for delays in repairs and responding to Mr S's complaint, I think this is reasonable.*
- I do recognise Mr S has suffered a financial loss as he has been without funds, having paid the van hire invoices. As such I intend to direct Admiral pay 8% simple interest per annum on the amounts of the invoices from the date they were paid to the date Admiral makes settlement".*

Responses to my provisional findings

Mr S said that he accepted my provisional findings.

Admiral said it had considered the report further and it recognises it was wrong and the car was not roadworthy. It suggested as an alternative to the resolution I had suggested, it would be prepared to write a letter for Mr S confirming the error. He could then present this to the third party to claim his costs back. It didn't think it should be held liable for them.

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.

I appreciate Admiral confirming the report that was issued was incorrect. I've considered its alternative proposal but, in the circumstances, I don't think it is reasonable. It has been recognised there were service failings within the repair process, and it took longer than it should have done. It is therefore possible the third party will refuse to pay for the whole duration Mr S had a hire van. Mr S would then potentially be put to further inconvenience having to go back to Admiral about the matter.

In light of the inconvenience Mr S has already been put to due to Admiral's error, I remain of

the opinion that Admiral should reimburse Mr S his van hire costs and then it would be free to attempt to recover further funds from the third party. Anything it didn't recover would be a cost for it to absorb as it would be as a result of its error(s).

Putting things right

Admiral should reimburse Mr S the van hire costs incurred plus 8% simple interest per annum from the date the invoices were paid to the date it makes settlement. Mr S should provide Admiral with the invoices if he has not already done so.

Admiral should also make payment of the £150 compensation it previously offered to Mr S if it has not already done.

My final decision

I uphold Mr S's complaint against Admiral Insurance (Gibraltar) Limited. I direct it to settle the complaint as I have set out in the section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 June 2024.

Alison Gore
Ombudsman