



<b><u>Decision Ref:</u></b>	2021-0438
<b><u>Sector:</u></b>	Insurance
<b><u>Product / Service:</u></b>	Car
<b><u>Conduct(s) complained of:</u></b>	Claim handling delays or issues Delayed or inadequate communication
<b><u>Outcome:</u></b>	Rejected

#### **LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

The Complainant incepted a **Light Commercial Vehicle Motor Insurance Policy** with the Provider on **4 May 2017**. The Complainant later cancelled this policy on **18 December 2017**. This complaint concerns the Provider's declinature of a motor insurance claim that the Complainant made in respect of damage to his vehicle on **13 October 2017**.

#### **The Complainant's Case**

The Complainant purchased his vehicle on **1 August 2016**.

The Complainant says that while driving on **13 October 2017**, the vehicle suddenly and without warning started to over-rev, regardless of the position of the throttle. He says that in order to prevent the vehicle from losing control through excess speed, he pressed the clutch pedal. There was a loud bang and the engine stopped. On exiting the vehicle, the Complainant says he saw a small fire beneath the engine, so he telephoned the emergency services but the fire had extinguished itself before the fire brigade had arrived. Arrangements were then made to recover the vehicle to the selling dealer, where the Complainant later learnt that the warranty on the vehicle had expired.

The Complainant then engaged the services of a Forensic Engineer to inspect his vehicle and who, in this **Report** dated **3 January 2018**, stated:

*"... I carried out an examination of the vehicles and have ascertained the following.*

- *The engine has a hole in its engine block low down in its centre section.*
- *No 3 con-rod is broken.*
- *No 3 piston had failed ...*
- *Sufficient lubrication remains on the engine internals to indicate that a lack of lubrication was not a problem.*
- *No 3 con-rod is still free to move on its crankshaft.*

**Detailed examination results:**

*I carried out some research on this and vehicles of this type to ascertain the facts of this matter. [The Complainant] became the owner of this vehicle on 1/8/2016. Pre this, the vehicle was in the ownership of [name redacted]. Its servicing and maintenance records are in order and it has been serviced in line with the manufacturer's recommendations. Previous to [the Complainant's] ownership there was a recall on this vehicle. The recall was concerned with the engine's ability to in certain circumstances to ingest its own lubricating oil into its cylinders leading to an uncontrolled throttle situation untimely leading to a failure of an engine component(s).*

*The initial indications are that this recall work was carried out in December 2015.*

*During my examination a check of the intercooler, intercooler and turbocharge pipes and turbocharger indicated the presence of some lubricating oil. The failed section of the piston also indicates the presence of partially burned lubricating oil atop the piston. Given these facts and the statement above from [the Complainant] it is very clear that this engine ingested some of its lubricating oil which caused it to over-rev and break a piston subsequently destroying the engine.*

**Report conclusion and recommendation**

*It should be noted that insurers will not provide indemnity for mechanical failure but the subsequent or resultant damage should be covered ...*

*This will mean that an insurer may not wish to provide indemnity for the piston which failed but they should have no difficulty in providing indemnity for the resultant or subsequent damage. In this case the piston has a cost of €92. I have prepared the attached estimate for the vehicle based on the fitment of a new short engine, turbocharger, intercooler, and intercooler pipes. These are the items to be replaced to ensure that there is no repetition of the previous failure and to return the vehicle back to its pre incident condition. The estimate totals €10,313 which clearly renders the vehicle an uneconomic repair.*

*My research indicates that this vehicle has a replacement value of €7,250/€7,500 ... The salvage has a value of approximately €2,000.*

*I would suggest that you complete your insurers claim form and forward a copy of this report and the completed estimate with the completed form ...”*

As a result, on **5 January 2018**, the Complainant completed an **Accident Report Form** to be sent to the Provider in which he described his loss, as follows:

*“I was returning from work @ 3am 13/10/2017 ... the vehicle suddenly started to over rev, regardless of acceleration. In order to prevent vehicle from losing control I pressed the clutch. There was a loud bang and the engine stopped. There was a smell [of] fire under the engine. I called the fire services, but fire had extinguished itself before they arrived. Arrangements were made to remove vehicle for return to [the selling dealer]”.*

The Complainant’s spouse posted this **Accident Report Form** to the Provider on **9 January 2018**, along with the **Forensic Engineer Report**.

The Complainant says that despite numerous telephone calls and emails to the Provider to try to resolve the claim in a timely manner, the Provider did not advise the Complainant until **16 March 2018** by telephone, and in writing on **4 April 2018**, that it was declining his claim.

The Complainant wrote a letter of complaint to the Provider but following its review, the Provider issued the Complainant with its **Final Response** letter on **18 June 2018** advising that it was standing over its decision to decline the claim. In his letter to this Office dated **16 September 2018**, the Complainant submits:

*“I wish to lodge a complaint in relation to the manner in which our insurance claim has been handled and the matter of a refusal of any form of reimbursement from [the Provider] for loss of a vehicle through no fault of our own.*

*From the first time of contact from us, my wife and I on the 30<sup>th</sup> of January 2018, communication with [the Provider] has always been difficult and one-sided. My wife and I had to communicate and chase any updates in relation to the claim. On several occasions when we called to speak with our claim handler we were advised that our claim handler was in a meeting, away from desk, on leave etc.*

*Our calls number approximately 19 calls between 19<sup>th</sup> January and 4<sup>th</sup> April 2018. We also sent emails which were never responded to. On the 8<sup>th</sup> of March after awaiting a decision we made contact with [the Provider], our claim handler advised she was still awaiting her assessors report and would follow it up, my wife advised that we would be unavailable for phone calls as my wife was being induced & awaiting appointment in maternity hospital but we did advise if there were any updates to contact us by email, we called again on 13<sup>th</sup> March but there was still no update given.*

*It eventually took from the 10<sup>th</sup> January to the 4<sup>th</sup> April for a final decision from our [the Provider].*

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*I feel our claim was not handled in a proper and timely manner. As we were not used to making insurance claims and were unsure of what should happen we employed the services of a qualified forensic motor engineer in this matter. We provided [the Provider] with copies of his report dated 03/01/2018 of which they receive don the 10<sup>th</sup> January 2018. It took to the 2<sup>nd</sup> of March for [the Provider] to arrange for [its] assessor [to] look at our vehicle.*

*Our forensic engineer advised us that we should do everything in our power to mitigate our loss. To this end we tried to retain contact with [the Provider] and feared if we did not follow up the claim would be continuous without resolution. We eventually sold the vehicle for €1,300 as it was turning green with moss in our driveway and wheels were going flat. We took the view that as [the Provider] had [its] assessor thoroughly examine the vehicle that we could dispose of it while it still had some value.*

*Our Forensic Engineer has provided an accurate report and explains as to the sequences of events. This has been explained to us in a manner that we can easily understand.*

*I also have seen from the correspondence received from [the Provider] that [its] assessor has become in later letters an engineer and then he qualified in the last letters as a forensic engineer. Given the explanation given about the assessors by our forensic engineer I find the change of title hard to believe. For the record our forensic engineer is a professional member of the Chartered Society of Forensic Sciences and is former Chief Motor Engineer at an Irish Insurance Company.*

*We feel very disappointed at how we were treated by [the Provider] both in terms of time and communications. I also do not know why our claim was turned down and feel very disappointed ...”*

The Complainant sets out his complaint in the **Claim Form** he completed, as follows:

*“Delay in [the Provider] reaching a decision from start to finish.*

*Communication or lack thereof between [the Provider] and us, constantly chasing [the Provider] for updates etc.*

*The outcome of our claim very disappointing ...*

*We were at a financial loss and feel [the Provider] found a loophole to avoid payment of our claim. We pay large premiums every year for motor insurance. I feel completely let down with the insurance industry in our case. We continue to pay our insurance & when there is a problem our insurers refuse to pay out”.*

The Complainant seeks for the Provider to admit and pay his motor insurance claim.

### **The Provider’s Case**

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Provider records indicate the Complainant incepted a **Light Commercial Vehicle Motor Insurance Policy** with the Provider on **4 May 2017**.

The Provider sets out the following timeline of events in relation to the Complainant's complaint:

On **31 October 2017**, the Complainant's Representative notified the Provider, for information purposes only, of an issue with the Complainant's vehicle, advising that the Complainant was not looking to claim but was instead notifying the Provider in case of Fire Brigade charges. As there was no further communication in relation to this matter, the Provider closed the claim on its records as nil on **4 December 2017**.

On **18 December 2017**, the Complainant voluntarily cancelled his policy mid-term and the Provider refunded him the sum of €146.31 on **28 December 2017**. At that point, the Provider says the claim notified to it previously on 31 October 2017 had been reported for notification purposes only and was closed at nil, thereby entitling the Complainant to a premium refund when he cancelled his policy.

On **10 January 2018**, the Provider received from the Complainant's spouse an **Accident Report Form** completed by the Complainant on 5 January 2018, as well as a Forensic Engineer **Report** dated 3 January 2018. This matter was referred to the Underwriting Team as the Complainant had cancelled his policy on 18 December 2017. Following advices received, the Provider subsequently reopened the claim and the Complainant was asked to reimburse the Provider the refund of €146.31, to which he was no longer entitled due to an open claim under his policy.

On **30 January 2018**, a Claim Handler spoke to the Complainant by telephone and he gave the Provider permission to speak with his spouse in relation to the claim. The Provider appointed a Motor Assessor to inspect the Complainant's vehicle and emailed this Assessor the Forensic Engineer **Report**. The Claim Handler confirmed to the Complainant's spouse that the Provider had appointed an Assessor to inspect the vehicle, and she advised that they were only now pursuing a claim as they had hoped the garage would pay for the damage and that they would not need to claim, but the warranty had expired.

On **7 February 2018**, the Provider received a **Preliminary Report** from its Motor Assessor dated **5 February 2018** which advised, among other things that:

*"...Upon inspection we found there to be a hole in the front of the engine block and what appeared to be part of a piston presumably from the vehicle in question ...  
The engine appears to have suffered a severe mechanical failure and would have to be dismantled in order to try and ascertain the fault ...  
We would require to have the vehicle inspected at a local garage or approved repairer with the engine fully stripped down before we could comment further, as this may be a mechanical failure & not covered under normal policy conditions. Is there an [Accident Report Form] on file also?"*

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On **14 February 2018**, the **Accident Report Form** description of accident screenshot was emailed to the Motor Assessor.

On **20 February 2018**, the Complainant's Representative repaid the premium refund of €146.31 to the Provider.

On **21 February 2018**, the Claim Handler advised the Complainant's spouse by telephone that the Provider was still awaiting the Final Report from its Motor Assessor.

On **22 February 2018**, the Claim Handler contacted the Motor Assessor for its Final Report and was advised again that the engine be dismantled before they could comment further.

On **6 March 2018**, the Complainant's spouse emailed the Claim Handler seeking an update.

On **8 March 2018**, the Claim Handler telephoned the Complainant's spouse to advise that the Provider was still awaiting a response to some queries from its Motor Assessor.

On **13 March 2018**, the Claim Handler telephoned the Motor Assessor, who confirmed that this was a case of mechanical failure and that the vehicle engine would need to be stripped to determine the cause, but that this was up to the Complainant. The Claim Handler asked if the resulting damage from the fire would be covered, but the Motor Assessor was not aware of any fire.

The Claim Handler advised that the Complainant had referred to a small fire in the engine and the fire services had been called and she emailed the Assessor a screenshot of the description of accident from the **Accident Report Form** (it transpired to be smoke caused from the oil in the engine). In addition, the Claim Handler spoke to the Complainant and advised that the Provider was still reviewing the matter and would get back to him.

On **16 March 2018**, the Claim Handler telephoned the Complainant and advised that the damage sustained to his vehicle was as a result of mechanical failure, which is not covered under his policy. The Complainant had to end this call as he was otherwise engaged.

On **21 March 2018**, the Claim Handler telephoned the Complainant, who advised that he was not claiming for the mechanical failure but for the resulting damage. The Claim Handler explained that in accordance with the policy terms and conditions, there must be evidence of an impact in order for loss or damage to be covered and that there was no such evidence of impact in this case. The Claim Handler offered to have the Provider's Motor Assessor telephone the Complainant's Forensic Engineer but the Complainant was happy for his Forensic Engineer to call the Provider and this approach was agreed.

On **22 March 2018**, the Complainant telephoned requesting the Provider to send written confirmation that the claim was not covered.

On **4 April 2018**, the Complainant telephoned as he was still awaiting written confirmation from the Provider that the claim was not covered. The Claim Handler advised that she had

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been on annual leave and unfortunately had not sent it beforehand, but that she would send it later that day as she was currently working on the file.

On **5 April 2018**, the Claim Handler emailed the Complainant a letter dated 4 April 2018, which stated that:

*“We have reviewed all aspects of your claim and having done so advise that we are unable to consider any payment at this stage. Our decision is based on the following:*

*In relation to the circumstances, it was advised that as the vehicle was being driven, it suddenly started to over rev. In order to prevent the vehicle from losing control, the driver pressed the clutch. There was a loud bang and the engine stopped.*

*We appointed [a Motor Assessor] to inspect the vehicle on our behalf.*

*Having inspected the vehicle the assessor advised that the engine appears to have suffered a severe mechanical failure and there does not appear to be any evidence of an impact.*

*In order to ascertain the exact cause of the failure and determine if an insured peril occurred, the assessor has advised the vehicle would need to be brought to a garage and the engine fully stripped before they could comment further. The costs of the stripping would not be covered under the policy.*

*At this stage, having considered the circumstances provided and the assessor’s findings to date, it would appear the failure is a mechanical issue which would not be covered under the policy.*

*We refer you to page 16 of the policy document where it states **“What it not covered”***

***“Wear and tear, mechanical, electrical, electronic and computer failure, breakdowns or breakages”***

*We also refer you to page 17 of the policy document where it states*

***“We will cover you against loss or damage to the insured vehicle and its standard accessories provided there is evidence that an impact has occurred”***

*Should you wish to proceed with stripping the vehicle, please advise and we will arrange to re-inspect it at your garage”.*

The Provider explains that at this point, having considered the circumstances outlined by the Complainant and the findings of its Motor Assessor, it was satisfied that the damage was mechanical failure, however it gave the Complainant the option to have the vehicle stripped down further at his own expense if he wanted to pursue the matter further.

On **27 April 2018**, the Provider received an undated letter of complaint from the Complainant. The Provider says this was the first time it was advised that the Complainant

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was selling his vehicle. There was no sale date mentioned in the letter, however its Motor Assessor later advised that as per an online check, the vehicle had been sold on **5 April 2018**.

On **8 May 2018**, the Provider issued the Complainant with a complaint acknowledgment letter.

On **20 May 2018**, the Provider issued the Complainant with a 20-day update advising that the matter was still under investigation.

On **22 May 2018**, the Provider says its Motor Assessor and the Complainant's Forensic Engineer spoke by telephone, during which they discussed a recall of the vehicle by the manufacturer due to the engine's ability to ingest its own oil, which would cause engine failure. The Forensic Engineer **Report** had advised that this recall was carried out in 2015, prior to the Complainant's purchase of the vehicle in 2016. The Forensic Engineer agreed with the Assessor that there was no evidence of fire damage and that the oil splattered around the engine may have caused smoke which the Complainant mistook for a fire.

On **18 June 2018**, the Provider issued the Complainant with its **Final Response** letter which stated that:

*"Whilst your forensic engineer has described internal activity in the engine itself, our forensic engineer has clarified that this was in fact the mechanical failure occurring and that the engine total destruction is part of the failure itself".*

With the claim declined and the file closed at nil again, the Provider reissued the premium refund of €146.31 to the Complainant.

The Provider notes the Complainant's Forensic Engineer's comments in his **Report (Addendum)** dated **14 April 2018** that:

*"... The pistons fails and breaks up whilst the engine is running. The piston breaking up and impacting the engine bore and engine block is the impact in this case.*

*The piston is held onto its con-rod in normal circumstances. When the piston fails the con-rod is able to escape from the bore and is to all intents and purposes trashing around the engine block.*

*Ultimately it punched a hole in the engine block comprehensively destroying the engine.*

*In insurance terms the mechanical failure of the piston would not be covered but the sub sequential or consequential damage should be covered.*

*In this case we did not include the item which mechanically failed in the claim (the piston) ..."*

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While the Forensic Engineer is suggesting that the damage to the engine should be covered by consequential damages after the con-rod failure, the Provider is satisfied that this is clearly not the intention of the policy wording and it says that consequential damage is not covered in this instance.

In this regard, the Provider notes that its Motor Assessor has advised that:

*“The reason the conrod connected to the piston failed is as a result of a mechanical failure issue from the inside of the engine and not an external impact from an outside source of the vehicle itself, which would normally be covered under normal insurance policy conditions.*

*Insurance terms would usually cover consequential damage but not usually from an internal mechanical failure issue, as this is seen as a mechanical failure issue from an internal engine matter.*

*This engine failure is a clear mechanical failure issue, as per the insurance policy terms”.*

The Provider says it is satisfied that its Motor Assessor is suitably qualified and notes his qualifications include EngTech, MIMI, Minst, AEA and AIRTE.

In summary, the Provider says the Complainant’s vehicle suffered a severe mechanical failure in the engine, which then damaged the engine itself. While mechanical failure is not covered by the policy, the Complainant advised that he was claiming for the damage resulting from the mechanical failure. The Provider says this is not covered either, as the policy only provides cover for loss or damage where there is evidence that an impact has occurred.

The Provider says that having considered the circumstances outlined by the Complainant and the findings of its Motor Assessor, it is satisfied that the damage was mechanical failure and that there was no evidence that the Complainant’s vehicle had impacted an object that would have caused damage to the engine and that any impact damage to the engine was a direct result of mechanical failure within the engine, which is not covered.

### **The Complaint for Adjudication**

The complaint is that the Provider wrongfully or unfairly declined to admit the Complainant’s motor insurance claim and that it provided him with poor customer service throughout its assessment of the claim.

### **Decision**

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During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint. Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties **28 October 2021**, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

In the absence of additional submissions from the parties, within the period permitted, the final determination of this office is set out below.

I note that the Complainant completed an **Accident Report Form** to the Provider on **5 January 2018** in which he described his loss, as follows:

*"I was returning from work @ 3am 13/10/2017... the vehicle suddenly started to over rev, regardless of acceleration. In order to prevent vehicle from losing control I pressed the clutch. There was a loud bang and the engine stopped. There was a smell [of] fire under the engine. I called the fire services, but fire had extinguished itself before they arrived. Arrangements were made to remove vehicle for return to [the selling dealer]"*.

The Complainant submitted this **Accident Report Form** to the Provider on **10 January 2018**, along with a **Report** from a Forensic Engineer, who had inspected his vehicle on **3 January 2018**. I note that following its claim assessment, the Provider advised the Complainant by telephone on **16 March 2018** that it was declining the claim as the damage to his vehicle was as a result of mechanical failure, which is not covered under his policy.

The Complainant advised the Provider by telephone on **21 March 2018** that he was not claiming for mechanical failure but was instead claiming for the resulting damage.

I note the Claim Handler explained that there must be evidence of an impact in order for loss or damage to be covered and that there was no such evidence of impact in this instance.

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The Provider subsequently emailed its claim decision in writing to the Complainant on **5 April 2018**.

The Complainant's motor insurance policy, like all insurance policies, does not provide cover for every eventuality; rather the cover will be subject to the terms, conditions, endorsements and exclusions set out in the policy documentation.

Section 2 of the applicable **Policy Document** provides, at pg. 16, as follows:

*"WHAT IS COVERED*

*We will cover You for loss or damage to the Insured Vehicle, and its standard accessories, that is caused by fire, lightning, explosion, theft or attempted theft.*

*WHAT IS NOT COVERED ...*

*Wear and tear, mechanical, electrical, electronic and computer failure, breakdowns or breakages".*

In addition, Section 3 of the **Policy Document** provides, at pg. 17, as follows:

*"WHAT IS COVERED*

*We will cover You against loss or damage to the Insured Vehicle and its standard accessories provided there is evidence that an impact has occurred ... "*

It is accepted by the parties that the damage to the Complainant's vehicle was caused by a failed piston in the engine and that it was the failure of this piston that caused the conrod to punch a hole in the engine block, ruining the engine. It is also accepted that the failure of the piston was a mechanical failure, which the parties both agree is not covered by the terms and conditions Complainant's policy.

What is at issue, however, is whether the consequential damage, that is, the damage to the engine caused by the failed piston, is covered by the policy.

In that regard, I note that in his letter to the Complainant dated **22 May 2020**, his Forensic Engineer submitted, among other things, as follows:

*"... From the outset I advised that the piston which failed mechanically was not covered and the policyholder was not seeking indemnity for this item. The failure of the piston caused the conrod to punch a hole in the engine block ultimately leading to the destruction of the engine. This is in no uncertain terms [an] impact and was followed by the rotating and reciprocating masses in the engine destroying themselves by being forced to attempt to rotate and reciprocate in an irreparably damaged engine block.*

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*The policy is clear and unambiguous cover will be provided if there is evidence that impact has occurred. The assessor has agreed that impact has occurred. The fact that the impact occurred inside the engine block is irrelevant in terms of the policy. The policy does not state that the impact must be external.*

*Mechanical failure is not covered and that is agreed. Again, to repeat the piston in the engine suffered a mechanical failure. The engine did not suffer a mechanical failure it was destroyed by impact.*

*If the piston had failed in such a manner as it did not release the attaching conrod then the engine would have come to a halt or more likely [the Complainant] would have brought it to a halt because it was losing power and making excessive noise. In that type of failure, the failed item would have remained a piston and it would have been a mechanical failure and indeed not covered by the policy.*

*However, we now know that this was not the case and the failure led to the consequential destruction of the engine. This consequential or sub sequential damage to the engine is or should be covered under the policy, The impact occurred; indemnity should have been provided ...”*

It is clear that the Complainant’s Forensic Engineer considered that the conrod punching a hole in the engine block was an “*impact*” that satisfied the policy requirement that:

*“We will cover You against loss or damage to the Insured Vehicle and its standard accessories provided there is evidence that an impact has occurred”*

[underlining added for emphasis]

Having considered the circumstances set out by the Complainant in the **Accident Report Form** and the findings of its Motor Assessor, I note the Provider says it is satisfied that the damage was mechanical failure and that there was no evidence that the Complainant’s vehicle had impacted an object that would have caused damage to the engine. It says that any impact damage to the engine was a direct result of mechanical failure within the engine, which is not covered.

I take the view that this is a reasonable interpretation of the policy wording in question:

*“We will cover You against loss or damage to the Insured Vehicle and its standard accessories provided there is evidence that an impact has occurred”,*

I am satisfied that the Provider was entitled to form the opinion that for this cover to be triggered, it is the Insured Vehicle itself that must be involved in an impact with a separate and external thing, such as another vehicle or a wall or a tree, for example, rather than a part of the Insured Vehicle breaking free and impacting with and damaging another part or parts of the Vehicle.

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In addition, I am of the view that it was reasonable for the Provider to conclude from the evidence before it, that the damage to the engine in its entirety, was a result of mechanical failure, which I note is expressly excluded from policy cover.

As a result, I am of the opinion that the Provider was entitled to decline the Complainant's claim, in accordance with the terms and conditions of his motor insurance policy.

In relation to the second element of complaint, that the Provider provided the Complainant with poor customer service throughout its assessment of his claim, I note that in her letter to this Office dated **27 May 2020**, the Complainant's spouse submits, among other things, that:

*" ... I have gone through the documentation and listened to the various recordings. If anything they highlight the one-sided communication we received from [the Provider]. The frustration of being fobbed off by one excuse or another can be heard in the tone of both our voices as time passed with this claim ...*

*It also beggars belief that a preliminary report was received [by the Provider] from [the Motor Assessor] on 07/02/18 but it took until the 16/03/2018 to be verbally advised that our claim would not be covered. We then decided to re-coup some of our loss by selling a shell of a car that we could not drive and later received a letter advising us on 04/04/2018 that we should bring it to a garage for further investigation if we wish ... "*

Recordings of telephone calls between the Complainant and the Provider have been supplied in evidence and I have considered the content of these calls.

The Complainant submitted his **Accident Report Form** and the Forensic Engineer **Report** to the Provider on **10 January 2018**.

As the Complainant had previously cancelled his motor insurance policy with effect from **18 December 2017**, I accept that the Provider first had to refer the matter to its Underwriting Team for advice before it could commence its assessment of the claim.

I note the Provider first advised the Complainant by telephone on **16 March 2018**, and again on **21 March 2018**, that his policy did not provide cover for his loss. This was 9 weeks after the Complainant first submitted his claim documentation to the Provider on 10 January 2018, which although not swift, I do not consider to be an unduly lengthy period, given that the vehicle had to be inspected and that the Provider, following receipt of his **Report**, had cause to refer the matter back to its Motor Assessor to seek further clarification.

The Provider issued the Complainant with its claim decision in writing on **5 April 2018**. In that regard, having listened to a recording of the telephone call that took place between the Provider and the Complainant on **21 March 2018**, I note the Claim Handler asked the Complainant if he wanted her to issue its claim decision in writing to him at that time but that he advised her to *"just hold off for the moment"*, as he wanted his Forensic Engineer to talk with the Provider first.

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I note the Complainant then telephoned the Provider on **22 March 2018** requesting that it send written confirmation that the claim was not covered.

I note the Provider did not email the Complainant its claim decision letter until **5 April 2018**, as the Claim Handler did not get to do so before she went on annual leave on 23 March 2018. I note the Provider advised the Complainant in its claim decision letter that he could arrange to have the engine fully stripped at his own expense, if he wanted to pursue the matter further.

The Complainant says he was prevented from pursuing this course of action as he had already sold his vehicle at that time. In that regard, I take the view that it was the Complainant's decision to sell his vehicle at that time, in that there is no evidence before me indicating that he did so on the advice or instruction of the Provider or its Agents. I also note that in anticipation of doing that, he did not tell the Provider of his intention or ask whether this could impact his claim.

In any event, as the damage to the engine was a mechanical failure and the vehicle had not been involved in an impact with a separate and external thing, in that the Complainant's own Forensic Engineer states in his **Report (Addendum)** dated **8 August 2017** that:

*... If the insurer is looking for an external impact to this engine it will not be found. The impact was in the engines internals ... "*

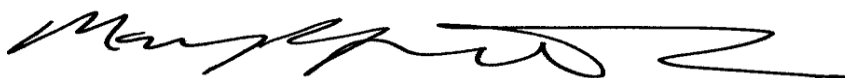
I am mindful that it is unlikely that stripping the engine would have resulted in a different claim outcome. Having regard to all of the above, I take the view that the evidence does not support the complaint that the Provider wrongfully or unfairly declined to admit the Complainant's motor insurance claim or that it provided him with poor customer service throughout its assessment of the claim.

It is my Decision therefore, on the evidence before me that this complaint cannot be upheld.

### **Conclusion**

This complaint is not upheld pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**.

**The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.**



**MARYROSE MCGOVERN  
DEPUTY FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

22 November 2021

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Pursuant to *Section 62 of the Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—

(a) ensures that—

- (i) a complainant shall not be identified by name, address or otherwise,
  - (ii) a provider shall not be identified by name or address,
- and

(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.

