



<u>Decision Ref:</u>	2022-0106
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Car
<u>Conduct(s) complained of:</u>	Claim handling delays or issues
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The Complainant holds comprehensive private car insurance with an insurance company (the “**Provider**”).

The Complainant’s Case

The Complainant's Motor Insurance Policy was incepted on **14 June 2019** and was in place at the time when the car incurred damage when she hit a low lying wall whilst exiting a garage – an incident which she notified to the Provider on the **26 March 2020**.

The Provider refused to indemnify the Complainant's Motor Insurance Policy claim, on the basis that her mechanic didn't fully itemise the invoice for repair works. The Complainant was advised by her Provider to use the Provider's vehicle repairers, but she preferred to use her own mechanic to carry out the repair works. The Provider advised her that it "*would not cover car hire and [the Complainant] would have to pay €125.00 excess*" if she used her own mechanic.

In any event, the Complainant elected to use her own mechanic who carried out the works between **5 May 2020 - 12 May 2020**. The Complainant's insurance policy was due for renewal in **June 2020** and she submits that her premium went up by €83.00 (eighty three euros) to €1,040.00 (one thousand and forty euros) "*despite having no claims bonus protection on my policy.*"

The Complainant was advised that there was still an open claim on the policy, as the Provider had not settled the claim or paid her mechanic for the repair works carried out. Additionally, the Complainant asserts that she was advised by the Provider not to pay her mechanic directly for the repair works as they “*could not guarantee that they would reimburse me.*” The Complainant is dissatisfied that her mechanic was not paid for the repair works carried out and that she was prevented from shopping around for a new car insurance product, due to the claim remaining open.

By email dated **1 September 2020** and addressed to the Provider, the Complainant asserts that:

“I damaged the side of my car some time last April. I called my insurance company, [Provider], who advised me to take my car to [Provider’s Mechanic] to have the work carried out and that if I took it elsewhere, they would not cover car hire and I would have to pay E125 excess. They also advised that they would not stand over the work. I did not want to take my car to [Provider’s Mechanic], I wanted to have it repaired at my own bodyshop, [Complainant’s Mechanic].

When I brought the car to [Complainant’s Mechanic], he was reluctant to do the job when he heard he would be dealing with [Provider] as they would be known to make it difficult for non-approved repairers to get paid for their work. I wanted [Provider] to fix my car, as I know he is good, so I said to him that I would pay him myself if he had trouble getting paid by [Provider]. When I dropped my car off to get fixed at [Provider’s] garage, he showed me the new parts in [Car Brand A] branded boxes. He gave me a hire car free of charge, an Audi A7, called me when my car was ready, then showed me all the damaged parts that he took off the car. The car was perfect, fixed to a very high standard. My husband and my son, who is a mechanic, both inspected the car and agreed that it was immaculate. Around this time, my insurance premium was up for renewal. My premium last year was E957, this year it was put up to E1040, despite having no claims bonus protection on my policy. I couldn’t get a quote from other insurers as this is still an open claim. When I spoke with [Complainant’s Mechanic] about this, he advised that he still hadn’t gotten paid for his work, as he had initially let me know might happen.

I wanted to pay [Complainant’s Mechanic] myself as I would consider myself a loyal customer of his, and I felt it wasn’t fair that he wasn’t getting paid for his work. I want to maintain a strong relationship with him as my whole family get their cars fixed at [Complainant’s Mechanic] and we intend on continuing to do so. Since this, [Complainant Mechanic] explained to me why they are not paying him, and that it was over the parts invoices from the main dealer which he did not want to provide to [Provider Accident Management Company] or [Provider].

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Although I didn't ask to see the invoices, [Provider] showed me them to ensure that I knew he was using main dealer parts, as he felt [Provider] might have been putting doubts in my mind. As I mentioned, my car was perfect, therefore I didn't need any further reassurance. At this point, I would like to note that [Provider] contacted me by phone on two occasions and advised me not to pay [Complainant Mechanic] directly, as they could not guarantee that they would reimburse me. Had I known this would happen when making a claim with [Provider], I would not have gotten insured with them in the first place."

By email, dated **19 May 2020**, the Complainant's Mechanic wrote to Insurance Ireland, a representative organisation for the insurance sector in Ireland, and said:

"The vehicle had damage to the left door and sill. [Provider] appointed [Provider Accident Management Company] to appoint an engineer. [Provider Accident Management Company] agreed figures with [Complainant's Mechanic's Assessors], on the cost of repairs at 3,493.00 inclusive of VAT so we carried on and repaired the vehicle and the job was completed on the 12th May. The customer collected the vehicle, inspected it and signed a satisfaction note confirming that she was very happy with the work we carried out. We forwarded the final account invoice to [Provider Accident Management Company], to which they responded requesting me to forward them new parts invoices. I advised that we would not supply these parts invoices as they were commercially sensitive. He asked me what part of the invoice was sensitive to which I replied that the prices of the parts and the name of the main dealer where I purchased the parts was sensitive. He then advised me to block these out and forward him on a copy of the invoice, to which I did. He then replied to this that he was advised that he will require 'the invoices to show prices to confirm the prices charged on the repair invoice and to confirm they are main dealer parts. We will still require an itemised invoice showing labour costs, paint and sundries cost, and parts cost.' He advised that he will not be able to process the final account for payment unless these requests were met. The parts prices had been previously agreed on their Audatex estimate with our engineer, so they were already aware of the price of each part, to which he had agreed. They had also agreed the figures of labour costs, paint and sundries.

I phoned [Provider] to let them know the situation. I told [Provider] that I have no problem showing the parts invoices to the customer, but I will not be giving them to [Provider Accident Management Company]. I am aware that [Provider Accident Management Company] & [Provider Mechanic] share the same directorships, I feel as a bodyshop I am entitled to hold trade secrets from competitors, in this case, which main dealer I choose to buy my parts from."

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The Complainant wants her mechanic to “*get paid in full for his work,*” and she wants the Provider to settle her insurance claim and close the 'open claim' on her motor insurance policy.

The Provider’s Case

The Provider states that in line with its **Terms and Conditions** it must receive adequate documentation supporting a claim. The Provider asserts that the invoice that was submitted “*was not sufficient and that we would require an itemized invoice showing labour cost, paint and sundries costs and parts costs.*”

The Provider also contends that “*the estimate for repairs was not agreed prior to the work being carried out on the Complainant's vehicle.*” The Provider also says that “*as we are a regulated entity, we are required to substantiate our costs.*” The Provider submits that “*until we receive the requested documentation, we are not in a position to progress our insured’s claim to settlement and issue payment.*”

In its **Final Response**, the Provider emailed the Complainant’s representative on **16 November 2020** and said as follows:

“The issue raised is that you feel we are withholding payment for repairs that you have carried out on our insured’s vehicle. Our insured notified us of an incident on March 26th, 2020 and advised that she wished to use your garage, [Complainant’s Mechanic] for repairs. When repairs were complete you forwarded a final invoice. One of our engineers advised on May 19th, 2020 that what had been provided was not sufficient and that we would require an itemized invoice showing labour cost, paint and sundries costs and parts costs. To date you have not provided the parts purchase invoices our engineers need to review before the final costs can be agreed. Our company is regulated by the Central Bank of Ireland. As we are a regulated entity, we are required to substantiate our costs. In order for us to do this, our process is that we must receive parts purchase invoices confirming the retail price on the parts suppliers headed paper and have these reviewed by our engineers before the final costs are agreed and payment set up. Until we receive the requested documentation, we are not in a position to progress our insureds claim to settlement and issue payment.”

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The Provider asserts that:

"The Claims Handler explained that the benefits of using [Provider Accident Management Company] is that the Complainant would not have to pay an excess and she would also be entitled to a courtesy car for 7 days while the vehicle was being repaired. Further benefits of using this service is that it is a faster process and we can give a lifetime guarantee on all parts. This is because [Provider] have oversight of the process.

Later that same day, the Complainant called our claims team back to advise that she was going to use [Complainant's Mechanic] instead of [Provider Accident Management Company]. The Claims handler updated the file and explained the following:

- *Excess of €125 would apply*
- *No courtesy car would be provided by [Provider]*
- *It may be a slower process*
- *We would require an estimate and images of the damage so that costs could be agreed.*

The Complainant confirmed that she understood and would still like to proceed with her chosen repair garage. While we offer additional benefits under the [Provider Accident Management Company] umbrella, there is no requirement for a customer to utilise this service. They are free to choose any garage they wish; however, we do request sight of parts purchase invoices before payment can be released. This requirement was set out to the Complainant's garage on the email of 03 April 2020 when recommended costs were sent to his assessors."

The Provider asserts that:

"The estimate for repairs was not agreed prior to the work being carried out on the Complainant's vehicle."

The Provider states that:

"[Provider] puts the Customer at the heart of our claims process. We do this in various ways by communicating the options available to them, verifying their repair costs and the parts used. By managing the claims costs we also ensure that a reasonable premium can be charged for all our Customers. The request for a parts invoice from [Complainant's Mechanic] also ensured that we acted in compliance with the Consumer Protection Code 2012 (as amended). As part of the repair process we agree repair costs with repairers as per the widely used estimating system in the motor industry called Audatex.

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This system allows a detailed estimate to be provided to the customer on how repair costs are calculated i.e. labour, paint and parts costs. It also provides a detailed breakdown of which parts are due to be replaced and which parts are due to be repaired. [Provider] and vehicle manufacturers have technical guidelines and procedures as to when a part can be repaired and when it should be replaced ... As part of the repair process we do request parts purchase invoices from repairers for many reasons as bulleted below:

- To ensure for our customer that the agreed repair schedule has been followed*
 - Where a safety related item or part is replaced the parts invoice confirms its purchase*
 - The parts invoice enables [Provider] to validate the cost of the part as per the vehicle manufacturers Recommended Retail Price (RRP)*
- As part of validating a claim it allows us to confirm to the policyholder, that we have only paid the RRP and not overpaid on their behalf*
- It helps [[Provider] prevent a break in the customer's vehicle manufacturers warranty by only fitting the manufacturers parts.*
 - It assists with any future customer claims or NCT tests etc by making sure the agreed repair schedules are followed."*

The Provider further submits that:

"we are obliged to verify the validity of all claims and we endeavour to ensure that genuine parts are being used for repairs to our customer's vehicle prior to issuing payment... Our request for the documentation was justified and required to verify the claim. All we required was the parts purchase invoice, and this was not provided. This would be a standard request for any motor claim."

The Provider argues as follows:

"[Provider] have a duty of care to act in the best interests of the Complainant and it was under this duty that the Claims Handler acted. We are satisfied that the accidental damage claim put forward by the Complainant is indeed covered by the protection of her motor insurance policy. We are eager to settle this claim, so she receives the full entitlement of the cover for which she has paid her premium. However, we cannot pay for an invoice where the costs have not been substantiated by the repairing garage.

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Unfortunately, given that the repairs were completed prior to our approval, and in the absence of parts purchase invoices, we cannot determine that the costs being sought by the Complainant's garage are acceptable for the work carried out. In that respect, ordinarily it would not be in our Complainant's best interests for us to pay this amount under her motor insurance policy if the costs have not been verified."

The Provider states that it “*puts the Customer at the heart of our claims process*” and in this case has offered a full settlement of the outstanding bill (less the excess) as “*gesture of good will.*”

The Complaint for Adjudication

The complaint is that the Provider wrongfully refused to indemnify the Complainant's motor insurance claim, submitted in or around **26 March 2020**.

Decision

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 on **28 February 2022**, 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 substantive submissions from the parties, within the period permitted, the final determination of this office is set out below.

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I note that the Provider relies on the Complainant's policy **Terms and Conditions** where, under the *Claims* section, it states that:

"2. You or any other person We cover under paragraph 4 of the Certificate must:...

C. not admit, deny, negotiate or settle a claim without Our written permission.

D. send Us all documents, proof, information and any letter or legal summons or similar document We may reasonably need; and

E. co-operate fully with Us in investigating and handling any claim."

The Provider also relies on the **Policy Schedule**, page 2, where it says that:

"If your claim is processed through our aligned repairer network, your accidental damage excess maybe reduced if specified in the renewal notice that applies to this current 'period of Insurance.'"

The Provider also submits that:

"at claims stage each communication that was issued to the Complainant contained the [Provider] Claims Process which states the following: 'We would ask claimants to please assist us by forwarding any information or documentation we may require to bring the matter to the earliest possible conclusion. Where further documentation or clarification is required by us to process a claim, we will advise in writing, at an early stage.'"

By email dated **1 September 2020** and addressed to the Provider, the Complainant asserts that:

"I am writing to you in relation to the above referenced complaint recently submitted by [Complainant's Mechanic]. I have been advised that the complaint has to come directly from myself as I am the customer of [Provider], along with the complaint form as attached. I have outlined [Complainant's Mechanic] details in the complaint form and I would be grateful if you could liaise directly with him on this matter going forward."

I note the contents of a **Letter of Informed Consent and Authority** signed on **12 May 2020** by the Complainant assigning the Complainant's Mechanic to act on her behalf in future dealings with the Provider. I note accordingly that the Complainant's Mechanic is her nominated agent for dealing with this complaint and that she wished for him to liaise directly with the Provider to resolve the complaint.

By email dated **19 February 2020**, the Provider wrote to the Complainant's Mechanic and said:

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"we are not refusing to make payment. In order for us to progress our insured's claim to settlement & issue payment we will require the following:

The Parts Purchase Invoice confirming the retail price on the part supplier's headed paper.

I note that you are not prepared to forward the parts purchase invoice to [Provider Accident Management Company]. However may I suggest that you forward the Parts Purchase Invoice confirming the retail price on the parts supplier's headed paper directly to myself. Once received and all confirmed in order we can then progress our insureds claim to settlement and issue payment. Unfortunately we cannot progress our insured's claim any further until we received the requested documentation."

The Provider notes that on **31 March 2020**, it received an estimate from the Complainant's Mechanic's Assessors for €3,665.22 (three thousand six hundred and sixty five euros and twenty two cent). The Provider submits that on **3 April 2020**:

"having reviewed the estimate received, the [Provider] engineer completed a report with revised recommended cost of repairs. He attempted to call [Complainant's Mechanic] to discuss the difference in the estimate received and our recommended cost but there was no answer. As we had no email address for [Complainant's Mechanic], the recommended costings were sent to his appointed assessor....Please see Attached PDF of recommended costs for review I have tried to contact the repairer but no answer could you forward and ask the repairer to review and to call me to discuss , noted changes to the estimate below."

The estimate that was sent to the Complainant Mechanic's Assessors said as follows:

"Please find attached copy of approved estimate for €3,493.89 incl. VAT for repairs to vehicle [registration] subject to stripping. Please note: I called you but you were unavailable, could you please call me to discuss, my number is below

** The figures are approved on a without prejudice basis.*

** Please contact the owner before proceeding with repairs.*

** Please check VAT status of owner.*

** Any excess needs to be confirmed with [Provider] Claims Department before deduction is made.*

Upon completion of repairs:

** Should any amendments to approved works be required please ensure to submit supporting images by Audatex or email to [email] Final Account verification*

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** Please supply purchase invoices for all parts on final account.*

** If you wish to be paid directly please forward the customers authority to pay."*

[My underlining for emphasis]

I note that the Provider submits that:

"it was clear to [Complainant's Mechanics] and their assessors as early as 03 April 2020 that this information was necessary to enable [Provider] to pay them for the work. We were first made aware of their concerns, after the repairs had taken place on the 19 May 2020. We do not dispute that their concerns were genuinely felt. To alleviate those concerns we proposed that the documents be sent to [Provider] instead of [Provider Accident Management Company] by email on the 29 July 2020. This offer was not taken up."

The Provider notes, on **13 May 2020**, that the " *final invoice was received ... There was limited information on the invoice, and it did not provide a breakdown of parts or parts prices as per our original request.*"

The Provider asserted, on **18 May 2020**, that:

"The Engineer in [Provider] Motor Services called to speak with [Complainant's Mechanic] to follow up on the invoice. He requested the invoice and the parts invoice to be emailed in for review however the garage refused to send this information stating that it was commercially sensitive. We explained that we just need to ensure that the prices match up with the recommended costs and that we did not need to see what discounts [Complainant's Mechanic] from a main dealer. He agreed to send the invoices and he would cover up any of the sensitive information...a reply was received with the repair and parts invoice but with the prices and supplier's name redacted...The Engineer in [Provider] Motor Services replied to the email advising that we would still require the invoices to show prices to confirm the prices charged on the repair and to confirm that they were main dealer parts. He also requested an itemised invoice and advised that the final account could not be processed for payment until the requested information was received.... A response was received from [Complainant's Mechanic] advising that the main dealer invoices are commercially sensitive and that they would not be providing same. [Complainant's Mechanic] called an [Provider] Claims Handler to advise that he sent in parts invoices but wouldn't send any more information."

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By email, dated **22 July 2020**, the Provider wrote to the Complainant's Mechanic and said:

"Unfortunately we are still awaiting the parts purchase invoice from the repairer in order to progress the claim. Both myself and our engineers have advised [Complainant's Mechanic] directly that the claim cannot progress without this information and I have also contacted the insured [Complainant] to advise same. At this time the parts purchase invoices remain outstanding.

Once received the engineers can review and submit a final report once all is in order but our hands are tied until this information is received."

On **27 July 2020**, the Complainant's Mechanic argued as follows:

" [Provider Accident Management Company] contacted [Complainant's Mechanic's Engineer], and agreed the costs of repairs at €3,493.89 inclusive of VAT. It was agreed that the parts that were required were vital to repair the vehicle, which consisted of a passenger side front door, passenger side scill moulding, brackets etc. and repair of the scill. We started the job on the 5th May 2020, finished on 12th May 2020. Sent our final account (invoice) to [Provider] on 12th May for the amount previously agreed. Between [Provider Accident Management Company] & our engineer, €3,493.89.

Breakdown of the final account as follows :

*Parts : €1,041.35 Labour: €1,310.00
Paint & Materials : €524.97
Additional Costs : €202.00 Sub total : €3,078.32
+ VAT@ 13.5% : €415.57
Total : €3,493.89*

Accompanied with this invoice was a signed satisfaction note from our client and direction to pay [Complainant's Mechanic]. I phoned [Provider] multiple times coming up to the 19th May, to request confirmation of invoice and to advise when payment will be made, however, I was unable to get in contact with them. I spoke with someone from [Provider Accident Management Company] on 19th May, they advised that they would not close off on the final account until they receive parts invoices from where I purchased the parts. I told them I would not be providing these invoices as they are commercially sensitive, and I am aware of their connection to competing bodyshop [Provider Mechanic].

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[Provider Accident Management Company] asked me what part of the invoice was sensitive, to which I responded, where I purchase the parts, as I don't want other bodyshops knowing this information (trade secret, ensure competition in the industry). I believe I am entitled to a discount in prices, being in the trade. [Provider Accident Management Company] advised that this should be ok, and to blank out the main dealer's name along with the prices of the parts, and send on that invoice to them. I done so.

A couple of days later, the same employee of [Provider Accident Management Company] phoned me back and advised that his boss told him he must receive the full invoice from me clearly showing all of the commercially sensitive information, at which I was previously advised that I could keep secret. We purchased all of these parts from the main [Car Brand A] dealer, and have every invoice for the parts.

I spoke with my client [Complainant], some time at the beginning of June. She told me she received a phone call from [Agent] at [Provider], she thinks it was on the 28th of May, he told her he had spoken to me and that I would not be providing parts invoices. He then advised her, should I invoice her direct, to not pay me for the work we carried out on her car. I have no problem showing the parts invoices to [Complainant] or to yourselves, but as I had previously advised [Provider], I will not be providing the parts invoices to them. These invoices are commercially sensitive, and I am aware that it is a direct breach of privacy to be made share them with [Provider Accident Management Company] as they share a directorship with [Provider's Mechanic], a competitor of mine. I feel this is an on-going problem. [Provider Accident Management Company] are consistently pressuring clients to bring their vehicles to their own bodyshop [Provider's Mechanic], to the point that my client is being told straight out to not pay me. I feel they are deliberately pushing smaller bodyshops out of business such as my own as a result of this...

On 23rd July 2020, I received a call from [Provider's Repair Auditors]. He told me that he was instructed to do a post repair audit on [Complainant's] car. I called [Complainant] to arrange this as [Complainant's Mechanic] was in [County] at the time. She advised me that she was working in [Town], but sent me the address of where the car would be parked. I sent this information to [Provider's Repair Auditor]. He called me back an hour later to advise me that the audit had been cancelled... I also asked why he asked my customer to not pay me, to which he responded that he had the right to tell my customer not to pay me. I find this extremely unacceptable... This is extreme cartel like activity and should not be allowed under the CPC."

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The Provider submits that:

“On the 27 May 2020 [Complainant’s Mechanic] suggested in a phone call to our office that they would contact the Complainant and obtain payment for the repairs from her directly. The Claims Handler contacted the Complainant that same day to discuss the possible consequences of taking this course of action. We wanted to make sure that our customers interests were protected. If the Complainant were to pay the garage directly for the repairs we would still require the parts purchase invoice in order to verify and pay the claim and we wanted to ensure that the Complainant would not be left out of pocket for the costs.”

By email dated **3 February 2021**, the Complainant’s Mechanic said:

“When [Provider] / [Provider’s Engineer Contractor] agreed figures and authorised repairs with my assessor, it was noted on their assessment notes on the estimate from [Provider’s Engineer] agreed that they would require part invoices from myself, however, this was never expressed nor provided to me, only to [Complainant’s Mechanic’s Engineer], who then advised me to carry out repairs. [Provider] never directly informed me that parts purchase invoices would be required until the job was complete. This was only expressed to me once a signed satisfaction note and direction to pay along with a final account invoice was provided to [Provider]. [Provider’s Engineer Contractor] agreed also noted on their accessors notes that they had tried to contact me via phone however, this was not the case as I never received any calls from [Provider’s Engineer Contractor] agreed.”

On **17 March 2021**, the Complainant’s Mechanic also noted that:

“the client in question contacted me and advised that her policy is up for renewal in June. As the premium continuously increases every year, she would prefer to shop around, but due to the open claim she is unable to do so. Would it be possible to have something put in place that will allow the client to retrieve quotes elsewhere and perhaps move the open dispute between myself and [the Provider]?”

The Provider wrote to the Complainant’s Mechanic by email dated **16 April 2021** and said:

“I note that [Complainant’s Mechanic] is representing our mutual customer however I just want to be sure that our customer is aware that in leaving the complaint open in anticipation of a Legally binding Decision, that she will continue to have an open claim on her policy.”

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The Complainant's Mechanic submits the following by email dated **17 April 2021**:

"It is difficult to see the email you have sent from [Provider] as anything other than threatening and initiatory towards both [the Complainant] and myself...I note that the writer of the email has job title of 'Ombudsman Specialist' and I say for the record that it is indicative of the power and might of the insurance industry in its dealings with consumer policyholders that the insurer has 'Specialists' in their employment whereas the consumer has to either engage with the FSPO with no specialist knowledge or ability in their own time to an their own expense or appoint a person to represent them."

The Complainant's Mechanic submits the following in relation to call no. 3 by email dated **5 May 2021**:

"As per the estimate sent to my assessor from [Provider], stated under assessment notes; 'Find attached copy of approved estimate for E3,493.89, inclusive of VAT for repairs to vehicle [number], subject to stripping'. I was not contacted directly by [Provider] on this, however, my assessor phoned me and advised that repairs were approved at this figure, subject to stripping. We did not find any additional damage or any reason to increase costs, therefore we felt there was no need to contact [Provider Accident Management Company] to, and proceeded with the repairs that were approved. The estimate states under assessment notes; 'Repair costs have been agreed on a without prejudice basis with [Complainant's Mechanic] in the amount of E3,483.89 inclusive of vat subject to stripping and dismantling.' However, we were not contacted directly by [Provider Accident Management Company] to or [Provider], I was only told over the phone by my assessor that repairs were approved, as [Provider's] engineer had revised the estimate, and agreed and approved a lower figure."

I note the Provider's explanation for requesting the detailed invoice ... *"we just need to ensure that the prices match up with the recommended costs and that we did not need to see what discounts [Complainant's Mechanic] were getting from their dealer and we just needed to make sure they were purchased from a main dealer but with the prices and suppliers name redacted..."*

In particular, I note that on **3 April 2020** an estimate was sent to the Complainant Mechanic's Assessors said *"the figures are approved on a without prejudice basis"* and *"Please supply purchase invoices for all parts on final account."*

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Consequently, I am satisfied that the works were approved, subject to the production of final purchase invoices for all parts. I note in that regard that the Provider gives a number of commercial explanations for requiring complete invoices. The Complainant also gives a number of reasons for the omission on his invoice, including that *“that the prices of the parts and the name of the main dealer where I purchased the parts was sensitive,”* and that *“ [Provider Accident Management Company] & [Provider Mechanic] share the same directorships, I feel as a bodyshop I am entitled to hold trade secrets from competitors, in this case, which main dealer I choose to buy my parts from.”*

I particularly note the Complainant’s mechanic’s submission that *“[Provider] never directly informed me that parts purchase invoices would be required until the job was complete.”* I don’t accept this, as the communication of 3 April 2020 made clear that the works were approved, subject however to the production of final purchase invoices for all parts.

Whilst I am satisfied that the communication of 3 April 2020 indicated that the figures were approved, it was clear that this was on a without prejudice basis, and the communication in question, made specific reference to the requirement (which I have outlined above) to supply purchase invoices for all parts on the final account.

In those circumstances, I am satisfied that the Provider was entitled to decline to release payment for the repairs undertaken, until such time as it received this supporting documentation which was a requirement it had made clear from the outset.

I note however, that at the time when the preliminary decision of this Office was issued last month, the Provider had confirmed that because it considered the Complainant to be at the forefront of this complaint in her capacity as its customer, it did not wish for this dispute and the open claim, to continue to prevent her from being able to shop around for her renewal of insurance.

In those circumstances, the Provider offered to pay the final invoice amount of **€3,493.89**, less the policy excess of €125 on this occasion, without the required supporting documentation required from her mechanic.

In my preliminary decision I noted that I was satisfied that this offer, which was made in open correspondence by the Provider in April 2021, represented a very reasonable resolution to the complaint and no further direction was therefore warranted from this Office in those circumstances. I noted that it would be a matter for the Complainant (whether through her representative or otherwise) to communicate directly with the Provider if she wished to accept this claim payment in order to bring the matter to finality.

I note that since that time the Provider has confirmed to this Office by email of **8 March 2022**, that:

“the Complainant and her repair garage have been in contact with us today and we have now issued payment for the invoice for repairs”

I am pleased to note the resolution of the matter on that basis and, for the reasons outlined above, I do not consider that it would be reasonable to uphold the complaint that the Provider wrongfully refused to indemnify the Complainant for her motor insurance claim.

Conclusion

My Decision, pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is rejected.

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
Financial Services and Pensions Ombudsman (Acting)

24 March 2022

PUBLICATION

Complaints about the conduct of financial service providers

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.

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Complaints about the conduct of pension providers

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will **publish case studies** in relation to complaints concerning pension 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.

