

The complaint

Mr R complained that Society of Lloyd's refused to change the salvage category it placed on his vehicle after he made a claim for it under his Farmers Vehicle Insurance policy. He also complained about what Lloyd's offered in settlement of his claim and the way it was handled.

My reference to Lloyd's includes the underwriting syndicate which actually provides the cover under Mr R's policy.

What happened

Mr R was in an accident in his vehicle in which it was hit from behind by a third party vehicle. The third party was also insured by the same Lloyd's syndicate. Mr R raised a claim through his insurance broker. He was told that a company, I'll refer to as A, would contact him about providing a hire car. Mr R has said A tried to provide him with an unsuitable vehicle and were unhelpful and aggressive in their communications when he refused the vehicle. At this point Mr R realised A were a claims management company who handle non-fault claims. He contacted his broker and told him A was to have nothing more to do with his claim. Mr R was then contacted by another company, who I'll refer to as F, who he has said told him it would be a bad idea to claim against his own policy. He then spent two weeks contacting his broker to obtain the third party's insurance details, as he hadn't got these at the time of the accident. His broker wasn't able to obtain these details and Mr R instructed him to just make something happen. At this point his broker started a claim against Mr R's own policy with Lloyd's. And it seems F took over handling the claim on behalf of Mr R.

Lloyd's wanted to move Mr R's vehicle to one of its approved repairers. Before his vehicle was collected someone from the repairer contacted him to discuss the damage to it. Mr R told them that the chassis would require replacement. And the repairer said his vehicle would be written off and he'd be given the opportunity to buy it back from Lloyd's. His vehicle was then collected and moved to the repairer's premises.

It seems the repairer did a repair estimate and sent this to Lloyd's. One of Lloyd's staff engineers decided Mr R's vehicle was a total loss and said the salvage category under the Association of British Insurers (ABI) Code of Practice for the Categorisation of Motor

Vehicle Salvage should be B. An engineer telephoned Mr R to tell him about the salvage category and Mr R protested about this. He explained how he intended to have the vehicle repaired, which included replacing the chassis. Mr R has said that at this point the engineer offered him his vehicle back with a salvage category of S, which was acceptable to him. The sticking point was that the engineer wanted to deduct a considerable amount from the settlement if Mr R retained the vehicle; meaning he wouldn't get what he wanted in settlement of his claim. Lloyd's settlement was based on the value shown in the policy schedule for the vehicle of £4,000.

Mr R has further explained that because he was unhappy with Lloyd's offer his

broker and F suggested he pursue a claim against the third party, as he could get a better settlement by doing this. Mr R agreed to this, as he thought the offer to change the salvage category to S would still stand. But, he soon discovered this wasn't the case.

Mr R's vehicle was moved into storage without his knowledge and then inspected by an engineer. This engineer also said the salvage category should be B. It seems following Mr R raising his concerns about the salvage category Lloyd's then instructed another engineer to inspect his vehicle. Discussions became protracted and Mr R asked if he could see both engineers' reports. He's said Lloyd's wouldn't let him. Mr R's broker then arranged an inspection of his vehicle by an independent engineer. This engineer said the vehicle fell outside the ABI Code and therefore no salvage category applied. Mr R's broker submitted this report to Lloyd's. But – according to Mr R - it was disregarded by Lloyd's.

Lloyd's still wouldn't agree to the salvage category being changed or removed, so Mr R asked us to consider a complaint against Lloyd's about the claim under his policy. Our investigation was protracted, as the investigator wanted to check certain things with Lloyd's and get its specific comments on others. He eventually sent out an email giving his view on Mr R's complaint. He said he didn't think Lloyd's needed to change the salvage category on his vehicle. But he did say he thought the valuation Lloyd's had used to reach its settlement offer was too low. He said it should increase this to £5,510 and pay interest on the amount due. He also mentioned that at one point Lloyd's was considering returning Mr R's vehicle to him, subject to certain conditions.

Mr R didn't agree with the investigator's view. He maintained that Lloyd's should change the salvage category on his vehicle to S. He also mentioned his vehicle could be considered a classic vehicle or a vehicle of special interest under the ABI Code and this could mean it didn't need to be given a salvage category. He also mentioned that Lloyd's didn't make it clear to him he wasn't obliged to use its approved repairer. And he said he'd have chosen a specialist repairer if he'd realised he could do so. And he would not have released his vehicle if he'd known it would be 'confiscated' from him.

Mr R commented on the conditions Lloyd's considered imposing for returning his vehicle mentioned by our investigator. He pointed out that these really go back to the fact it was incorrectly given a salvage category of B.

Mr R also pointed out he had to use money borrowed from his parents to replace his vehicle, which should have been invested in different machinery for his business.

I issued a provisional decision on 9 December 2021. In this I said that Mr R's vehicle should be classed as a historic or classic one under the ABI Code. But, I then went on to say I didn't think Lloyd's were wrong to say it wasn't safe to repair the vehicle, to class it as category B originally and then refuse to change the category to S. However, I did agree Lloyd's shouldn't have moved Mr R's vehicle to storage without telling him.

And I said if he withdraws his claim Lloyd's would be obliged to return it to him. I also

said Lloyd's should base its claim settlement on a market value for Mr R's vehicle of £5,510 and not make any deduction for VAT. Plus, I suggested Lloyd's should pay Mr R £100 for the distress and inconvenience he'd experienced as a result of not being given the option to take his vehicle to a specialist repairer.

I gave both parties until 23 December to respond to my provisional decision with further comments and evidence.

Mr R responded and made a number of points. I've not set them out here in detail, as things have moved on and I don't think it is necessary. In essence, Mr R didn't agree with my provisional decision and didn't think Lloyd's should have placed a category B marker on his vehicle. He didn't think it had properly considered the fact that his proposed repair included replacing the chassis. And he felt I should have spoken to the engineer his broker appointed and the person who'd provided a quote to repair his vehicle before making my decision. He also queried whether Lloyd's would recover his excess for him, as the driver of the vehicle which went into the back of his vehicle was also insured with the same syndicate at Lloyd's.

As a result of Mr R's response to my provisional decision, and after speaking with the engineer Mr R's broker had appointed and the repairer who'd provided a quote to repair Mr R's vehicle, I raised a concern with Lloyd's that its engineers hadn't fully appreciated and considered the fact that Mr R's vehicle could be safely repaired provided the chassis was replaced. In the end, Lloyd's agreed to the appointment of another independent engineer to inspect Mr R's vehicle and decide a) whether the salvage category could be changed to S, and b) whether Lloyd's was wrong to class it as category B in the first place and stick with this.

I'll refer to the engineer who inspected Mr R's vehicle as AB. He provided a very comprehensive report in the first instance with his conclusion. He said Lloyd's was correct deeming the vehicle a total loss due to the extent of the damage and the repair cost. He said that the vehicle can be safely repaired if the chassis is replaced. And he said that if he had done the original inspection he would have categorised the vehicle as S for salvage if he could have been reasonably sure the purchaser of the salvage, ie Mr R, would fit a new chassis. This would be provided Mr R had agreed to the chassis being replaced with a completely new chassis assembly. And for the vehicle to be reinspected by him or another independent engineer after it had been repaired, to verify that the chassis had been replaced and that the vehicle was roadworthy. AB also confirmed to me after providing the report that he still thinks it is fine for the salvage category on Mr R's vehicle to be changed to S and for him to be able to have it back and get it repaired, provided this includes replacing the chassis.

I sent Mr R a copy of AB's report, which – in the main – he agreed with. He raised a concern about the extra cost to repair his vehicle because it has been stored outside at Lloyd's salvage agent for nearly two years. He also raised a concern about the fact that AB had arranged for his vehicle to be lifted up by a forklift truck so he could inspect its underside. Mr R felt this showed a lack of care for it and may have caused damage.

Mr R also said that, whilst he accepted Lloyd's would normally make a deduction if a customer retains a vehicle that is a write-off, he hoped consideration would be given to this in the compensation I awarded for distress and inconvenience. He also said he could have claimed against Lloyd's as a third party through a claims management company and had a hire car for a period of time. So the fact he didn't do this had saved Lloyd's money and he thought this should be considered.

Lloyd's was also sent a copy of AB's report. In response it said it was willing to

re-categorise Mr R's vehicle as category S for salvage and allow him to retain it. It also said it would commission the reinspection after the repairs had been carried out

to make sure it is roadworthy. It also said it categorised Mr R's vehicle as B originally with the safety of Mr R in mind and maintained this was correct using independent advice from two different sources. And it didn't think it would be fair to say that it acted unreasonably in categorising it as B and sticking with this in light of the evidence it had. It also said it would receive 25% of the pre-accident market value of Mr R's vehicle from its salvage dealer if it was to take possession of it. And it would deduct this from the settlement amount due to Mr R if he does decide to retain the vehicle.

I asked AB to update his report to provide an estimate of the cost of the extra work he thought would be required as a result of Mr R's vehicle being in storage for two years. And to comment on the fact it was lifted by a forklift truck.

On the second issue of how the vehicle was lifted, AB said he made sure this was done very carefully and it hadn't caused any damage. On the first issue, he estimated the additional work required would cost just over £2,000.

I sent a copy of AB's updated report to Mr R. He came back and contested AB's view that he would have categorised his vehicle as B for salvage if he couldn't be sure the person retaining it would fit a new chassis. He said this implied that a sub-standard repair would be possible, which he would never have considered. And it would apply to any vehicle categorised as S, as this category has to be based on the assumption that the vehicle can and will be properly repaired. Mr R further explained how he intends the replacement of the chassis to be carried out and raised some concerns about additional costs he will incur as a result of his vehicle being in storage. He said he doesn't want Lloyd's to have anything more to do with his claim or vehicle once he has it back, but he will present all the required evidence of the repairs to AB, so that he is fully up to speed when he carries out his reinspection.

He also raised a concern about the fact that the photographs of his vehicle suggest part of the serial number plate has been snapped off and that this was intact when the vehicle was moved to Lloyd's approved repairer.

Mr R also reiterated his point about Lloyd's recovering or covering his excess. And he explained once again the significant impact financially and great deal of stress the poor handling of his claim by Lloyd's had caused him.

I issued a second provisional decision on 17 March, in which I set out what I'd provisionally decided and why as follows:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've given a great deal of thought to this matter in light of AB's comments in his report and Mr R's comments. Whilst I appreciate Lloyd's view that its assessment of Mr R's vehicle was based on the views expressed by inspecting engineers, I think it should have been clear to it that these views had not fully appreciated Mr R's assertion from very early on that he intended to replace the chassis as part of the repair to his vehicle. I say this, as the engineers' comments suggest to me they hadn't really thought about this possibility. For example, the engineer who provided a report dated 8 April 2020, who I'll refer to as H, said 'Tloss cat B has been correctly placed on HPI prior to our recovery. New chassis frame required plus main body panel replacement/repair'. This suggests to me they had not really considered what salvage category could be placed on the vehicle if the repair included replacement of the chassis frame. And the engineer who inspected the vehicle on 27 April 2020, who I'll refer to as IA, referred to the vehicle being correctly placed in

category B and

not returned to the road as it was uneconomic to repair. Whereas, the cost of repair should not be a major consideration when deciding whether B is the correct salvage category. And the fact their report doesn't even mention that Mr R's intended repair included replacing the chassis, suggests to me IA wasn't properly instructed on what they actually needed to consider.

Also, Lloyds had a report from the engineer appointed by Mr R's broker, which suggested the vehicle could be repaired using a new chassis frame and it fell outside the ABI Code for salvage. Plus, it had an estimate for replacement of the chassis provided by Mr R from a reputable repairer. And, in my opinion, Lloyd's seems to have been more concerned about the implications of changing the salvage category than actually assessing properly whether this was appropriate. I do of course understand Lloyd's concern, but I think it had enough information quite early on from Mr R to give the engineers involved better instructions on what they needed to consider. Or to realise it needed to appoint an engineer with more experience of the type of vehicle involved, like AB, to inspect the vehicle and provide a fully informed opinion on the salvage category. And – if it had done this, I think it would most likely have concluded it had got the salvage category for Mr R's vehicle wrong by the end of April 2020 at the latest.

However, I think it is hard to say the engineer who originally placed the salvage category on Mr R's vehicle got it wrong, as he based his assessment on the estimate from Lloyd's approved repairer and didn't know Mr R intended to replace the chassis when he repaired the vehicle. However, I accept he could have spoken to Mr R or perhaps sought advice from someone with more experience of the type of vehicle involved.

So, I think it is fair to say that Lloyd's should have considered the issue of the salvage category more carefully and thought about what was appropriate, bearing in mind what Mr R had said. And if it had done this and got specialist advice if it needed it, I think it would have at the very least saved Mr R experiencing a great amount of unnecessary distress and inconvenience from the middle to end of April 2020 onwards. And it may have meant he wouldn't have needed to borrow money to replace his vehicle and could instead have purchased other machinery to help with his business. In view of this, I now think Lloyd's needs to pay Mr R a very significant amount of compensation for distress and inconvenience, including the inconvenience to his business. It is difficult to put a financial amount on this, as Mr R was clearly very upset about the situation. And I appreciate no amount of compensation will seem like enough to him. But, I have to decide what is fair and reasonable and I think this is £1,000. This reflects the months of anguish and frustration for Mr R, the impact on him mentally, the worry and the concern about what was going to happen to a vehicle he clearly values very much. It also reflects the fact he had to buy a replacement using borrowed funds and this stopped him using what he'd borrowed to buy other machinery to help his business. It also reflects the frustration for Mr R of finding out the serial number plate on his vehicle has been damaged and half of it is missing. I assume he can get this fixed and I will allow some leeway in the likely cost of repairs required as a result of his vehicle being in storage to reflect this.

I've considered Mr R's point about the fact his decision not to pursue a claim through an accident management company saved Lloyd's money. However, my role is to award him what I think is appropriate compensation for the distress and inconvenience he experienced. And what Lloyd's might have saved as a result of how Mr R pursued his claim is not something it is appropriate for me to consider when deciding this.

Turning now to what I think Lloyd's should do about Mr R's vehicle. It has already agreed to change the salvage category to S, provided Mr R signs a document agreeing to a

reinspection to check the vehicle is roadworthy after the repairs have been carried out. And Mr R has agreed to this. I think it makes sense for AB to carry out this reinspection and I am

pleased Lloyd's has agreed to commission this. And, to be fair to Mr R, I think Lloyd's should pay AB's fee for it. It therefore follows that I think Lloyd's should go ahead and change the salvage category to S and return the vehicle to Mr R.

Mr R wants to get the vehicle repaired, but it is still a total loss and the maximum Lloyd's has to pay under the terms of the policy under normal circumstances is either the market value at the date the damage occurred or the value listed in the schedule. I've checked the market value at the date Mr R's vehicle was damaged in the only guide that actually returns a value, and it is £6,516, including VAT. This is higher than the current market value. So, as Mr R isn't VAT registered, I think Lloyd's settlement should be based on this amount. This is also more than the value Mr R provided as per his policy schedule of £4,000. But, as I explained in my previous provisional decision, I don't think it would be fair for Lloyd's to limit the payment for the vehicle to £4,000 when the premium would have been the same if Mr R had chosen a market value of £6,516.

I don't think Lloyd's should deduct Mr R's excess, as I understand the other driver is also insured with the same Lloyd's syndicate and was clearly at fault for the accident. So Lloyd's should be able to get this back via the other driver's policy.

Lloyd's has said that if it kept Mr R's vehicle, which would normally be the case with a total loss, it would get 25% of the pre accident market value from its salvage agent. I am not sure whether it would be 25% of the value net of VAT, but I think it's fair to say this is what should be deducted. This is £1,358. This means I think Mr R should receive £5,158 in settlement of his claim for his actual vehicle. I appreciate the distress Mr R has experienced and I've taken this into account in the compensation I've awarded. So, I don't think this should have any impact on the deduction I allow Lloyd's to make for its loss on the salvage.

AB has estimated that the likely cost of repairs required as a result of Mr R's vehicle being stored outside for around two years is just over £2,000. Mr R has suggested it could be a bit more than this. And I do think it is fair and reasonable to allow some leeway. So, I think Lloyd's should pay £2,300 on top of the £5,158 to reflect this. This makes the total amount I think Lloyd's should pay Mr R for his vehicle £7,458, with it being returned to him for repair with a salvage category of S, and him signing an agreement as mentioned above.

My provisional decision

For the reasons set out above, I've provisionally decided to uphold Mr R's complaint and make Society of Lloyd's do the following:

Change the salvage category on Mr R's vehicle to S, subject to him signing an agreement that he will get it properly repaired and that this will include replacing the chassis. And that it will be reinspected by AB and confirmed by him as roadworthy before Mr R puts it back on the road.

Pay the cost of the reinspection by AB.

Pay Mr R £7,458 in settlement of his claim for his vehicle.

Pay Mr R £1,000 in compensation for distress and inconvenience.

I gave both parties until 31 March to provide further comments and evidence in response to my second provisional decision.

Mr R has responded to say he thinks my provisional decision provides a good and fair outcome. He has added that he believes Lloyd's tried 'to bully' him into submission to its outcome through the claim by its handling and unwillingness to reconsider any evidence. And it was only that he was able to cope without the payout by borrowing money from his parents that he was able to fight his case.

Lloyd's has responded to say it has no further points to add and that it is in agreement with my provisional decision.

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.

As both parties agree with my second provisional decision, I see no reason to reach a different conclusion on the fair and reasonable outcome to Mr R's complaint.

I've noted Mr R's comment about Lloyd's approach, but it doesn't alter my view on the fair and reasonable outcome to his complaint, as I considered it when I reached my provisional decision.

Putting things right

For the reasons set out in my second provisional decision, I've decided to uphold Mr R's complaint and make Society of Lloyd's do the following:

Change the salvage category on Mr R's vehicle to S, subject to him signing an agreement that he will get it properly repaired and that this will include replacing the chassis. And that it will be reinspected by AB and confirmed by him as roadworthy before Mr R puts it back on the road.

Pay the cost of the reinspection by AB.

Pay Mr R £7,458 in settlement of his claim for his vehicle.

Pay Mr R £1,000 in compensation for distress and inconvenience.

My final decision

My final decision is that I uphold Mr R's complaint and order Society of Lloyd's to do what I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 25 April 2022.

Robert Short
Ombudsman