

The complaint

Mr M has complained about his motor insurer, Aviva Insurance Limited. Mr M has many concerns about how Aviva handled a claim, as well as how it settled it. His concerns about the amount of the settlement have been dealt with in another decision issued by a colleague. This complaint reference and decision deal solely with how Aviva, and its agents for which it is responsible, handled the claim and settlement.

What happened

A named driver on Mr M's policy, driving the car, was involved in an accident on a roundabout on 2 November 2020. Mr M believed the other driver was at fault and Aviva initially accepted this, telling Mr M it was dealing with the claim on a non-fault basis.

Aviva thought the car was repairable, although, as a result of the crash, it was immobile. Mr M was waiting for repairs to be arranged but needed transport for work. So, he said, he bought an alternative car. It was late November before Aviva's garage took the car for repair, and the garage provided a courtesy car to Mr M on 25 November 2020.

On 30 November Aviva's garage told Mr M the car wasn't economically repairable. Later that same day when Mr M made enquiries with Aviva it assured him the car was with the garage for repair. Aviva's claim handling company ("V") then contacted Mr M to offer him settlement for the car based on its market value as it was viewing it as a total loss (not economically repairable). V said the market value was £5,600 and, whilst there was no excess, anything owed to the finance company for the car would be paid from that sum first to settle the finance agreement. Mr M challenged Aviva's figure. On 21 December Aviva told Mr M that, following its review, it thought the market value for the car was £6,733. A cheque for this sum, less a reduction applied as Mr M chose to keep the car, was sent to Mr M in February 2021 (the finance having been previously settled), with his car being returned to him shortly thereafter. My colleague later found that the final market value Aviva had ascribed to the car was fair and reasonable.

Meanwhile, Aviva wrote to Mr M, stating it accepted that, during November, before deciding the car was a total loss, it had delayed the claim. So, and despite the fact Mr M wasn't, in its view, entitled to a courtesy car under the policy, it said it would pay Mr M £230 – £10 a day for the 23 days he had been without use of his car before a courtesy car was provided, due to its delays. Also a further £120 compensation for the upset he'd been caused. But it wouldn't pay any costs he'd said he'd incurred for buying a replacement car. And regarding other concerns Mr M had raised with it, such as in respect of it having provided him with misleading information, Aviva didn't accept it had done anything wrong.

Our investigator considered Mr M's concerns and noted the total of £350 compensation (the £230 for the loss of use of his car in November and £120 for upset) which Aviva had paid, as well as an apology it had given. He wasn't minded to make it do anything more.

Mr M said he was particularly unhappy as he understands that the policy, as well as promising to provide courtesy car for the period of repairs, says one will also be provided when a car is immobile or unroadworthy. He said his car was immobile following the incident,

but he didn't get a courtesy car and he had needed a car for work, so he'd had no choice but to buy one. He said Aviva didn't pay him the settlement value until May 2021.

Mr M's complaint was passed for an ombudsman's consideration. I asked both parties for further details. Neither provided any. So I assessed the complaint based on the evidence available to me and, having done so, issued a provisional decision, the findings of which were:

"replacement car"

I don't intend to make Aviva pay Mr M for replacing his car. He's asked that Aviva, in order to compensate him for purchasing a replacement car, makes a payment to him based on the cost of hiring a car, as well as for things like servicing the new car. But as Mr M didn't hire a car, I can't reasonably require Aviva to pay for that. And despite being asked for evidence of the purchase, or even insurance documents, Mr M hasn't shown me he bought a car because of Aviva failing to provide him with a courtesy car. I see he told Aviva he would have to buy a car, but he didn't show it proof of the purchase either. Whilst I think Aviva did communicate poorly with Mr M and did cause delays, which I'll come on to, I don't think that buying a car is a proportionate response to that. Certainly not within only a few days of a claim having been made, where claims are a natural risk of driving a car and do take some time to resolve, sometimes not entirely without a reasonable level of inconvenience having to be endured. Aviva accepted it had caused delays from the point of the claim and during the period in which Mr M says he bought a replacement car. It accepts Mr M should have been in a courtesy car earlier and has offered Mr M £230 (£10 a day) to make up for that. I think that's reasonable in the circumstances, and I'm not minded to make it pay more, or to make payment to Mr M in line with hire costs or the cost of a replacement car.

poor communication and delays

Aviva has accepted it should have progressed the claim sooner than it did. But I also note that the policy says a courtesy car will be given where a car is immobile – it doesn't have to be with the garage for repair. In any event, because it has accepted it delayed matters, as noted above, Aviva has offered what I think is reasonable compensation, for loss of use of his car in November 2020. But Aviva also offered Mr M £120 for the upset he was caused. Whilst I'm satisfied by the loss of use payment, I don't think the £120 for upset is fair and reasonable. I think Aviva has caused Mr M more upset than it has, so far, accepted.

Mr M told Aviva on 14 November 2020 that his queries about who decides liability hadn't been answered. And also that the online claims portal wasn't working. I don't see that these concerns were ever responded to by Aviva. There was then an issue where the garage told Mr M that his car was not repairable. And when Mr M sought further advice on this from Aviva, it assured him it was. Clearly Aviva was not kept in the loop about what was happening with the car and Mr M's claim. I think that was likely because Aviva had outsourced the handling of the claim to "V" – but that shouldn't have caused Mr M to have a less than satisfactory service.

However, I note that V caused further communication issues and delays when it was decided the car couldn't be repaired. Aviva's file shows V didn't call Mr M as soon as it should have done and that its first valuation applied to the car was lower even than the sum ascribed by the trade guides commonly used for valuing cars. To be clear, my colleague has considered the value later offered in settlement by Aviva – and I can't comment further on that. But my colleague, as part of that complaint, did not look at how the valuation was handled. And I do think Mr M was caused further upset in this respect because V did not ensure a fair and reasonable offer – in line with the trade guides – was originally made. And when both that and the final settlement value were put to Mr M, Aviva did not make settlement to him promptly – not until February 2021. Aviva's file shows it sent a cheque for the settlement on 23 February 2021. It was only around that time that Mr M's car, that he was keeping as part of the settlement arrangement, was returned to him. So, with the car being declared unrepairable on 30 November and the original, unfair and unreasonable offer being made around this time, there was about three months of delay caused by Aviva.

I know that Mr M didn't actually get settlement from Aviva until May 2021. I see that in March 2021, as part of further work on the liability aspect of the claim, Aviva noted the settlement cheque it had sent in February 2021 hadn't cleared. I see it tried to contact Mr M at this time to see if he wanted a bank payment. I think it handled this reasonably, and I don't see that Mr M replied to it. I note that my colleague's decision on the valuation aspect was issued in May 2021, and it seems it was likely this that precipitated the parties finally organising payment. But I don't think delay in this period – March to May 2021, was really down to any failure of Aviva. I wouldn't expect an insurer to routinely follow up on a cheque payment to make sure it was cashed. And the cheque wasn't out of date when Aviva realised in March it hadn't been cashed. I think Aviva acted reasonably in following this up with Mr M. But of course, its other delays meant he should have had settlement for the claim long before the cheque was initially sent in February. Had he had it before February, then I think the further delays which occurred during March to May, would likely have been avoided too.

Taking everything that happened into account I think that Aviva should pay Mr M a total of £500 compensation for distress and inconvenience caused by its poor communication and delays. That is separate and in addition to the £230 loss of use payment Aviva offered. But the payment of £120, which was offered for upset caused to Mr M in November 2021, can be taken into account as part of that £500 total sum. That said, I'm not sure if these sums offered were actually paid to Mr M. If they were then Aviva will only now have to pay Mr M a further £380. If they weren't then Aviva will have to pay Mr M £500 plus £230.

But I'm also going to require Aviva to pay interest on the amount of the final settlement value. Bearing in mind the delays in November, as well as those I've identified in December 2020 – January 2021, I think this should have all been settled and paid to Mr M by the end of November 2021. So he should have had money in his pocket at that time, money which he didn't actually receive until May 2021. As such, and in line with our usual approach to delayed payments, interest should be added to the final settlement figure for the total loss of Mr M's car from 1 December 2020 until Mr M received the settlement payment.

no further loss of use payment

Mr M may wonder why, given Aviva offered a compensating payment for loss of use in November, and I have found delays caused by it December 2020 – February 2021, I am not also making it pay for loss of use at £10 a day for that period. I've thought about making that award. But, in the specific circumstances of this complaint, I don't think it would be fair or reasonable to do so. Nor would it be in line with our usual approach. This service often makes loss of use awards at £10 a day where an insurer's delays meant the policyholder had no access to a car at all. I don't believe that is the case for Mr M in this period. He

clearly did not have use of his car subject of the policy, and, as described above I think Aviva should have sorted matters out sooner. But, according to what he says, he did have use of a car. That was clearly not as convenient for him as his damaged car – but, that being the case, I've compensated Mr M for his distress and inconvenience suffered with my above stated award of £500. That's fair and reasonable in my view.

complaint handling

Mr M has said he is unhappy with Aviva's complaint handling too. That is not something I can consider or take into account. That's because complaint handling is not a regulated activity and I can only look at complaints about regulated activities."

Mr M did not reply. Aviva provided some notes from its claims management system and an email from V addressed to Mr M but sent to Aviva on 6 April 2022, which responded to the concerns Mr M had raised about V's poor communication and delays. V denied there were any. In responding to my findings Aviva said it thought I had strayed into the previous complaint considered by this service. Aviva said it felt that any aspect in regarding valuations was dealt with under the previous complaint, so asked that I amend my findings made in respect of compensation.

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.

The system notes and email recently provided by Aviva don't add anything to the detail already provided. The system notes don't for example, suggest there were no delays or poor communication as I identified in my provisional findings. And whilst the email denies the same, that is just V's view of the situation – and I was aware of that when I issued my provisional findings. I, of course, take note of that view but, it can't reasonably be taken as outweighing the other evidence I've seen which caused me to think there had been poor communication and delays, which had caused upset and inconvenience to Mr M.

I've read the decision issued by my colleague on the previous complaint. That detailed that the complaint in consideration then was the value of the settlement issued by Aviva. My colleague's findings set out their consideration of that issue. And specifically stated that Aviva's claim handling was not being considered as part of that complaint. As such, the service provided by Aviva in respect of that settlement offer being made was not considered.

I have considered the service Aviva provided when handling Mr M's claim, including the way in which it handled the settlement offer *but not its value*. My consideration and decision are separate and distinct to those of my colleague.

I found that Aviva had failed Mr M in the way it handled the claim, and that Mr M had suffered distress and inconvenience as a result. I decided what compensation I felt was due to fairly and reasonably make up for that. Having considered Aviva's response made in reply to my provisional findings, my view hasn't changed. And Mr M didn't reply to my decision. So I've no need change what I said provisionally. As such, my provisional findings, along with my response to Aviva's reply to them, now form the findings of this, my final decision.

Putting things right

Aviva hasn't sought to satisfy me that any payments have already been made by it and received by Mr M. So I now require Aviva to pay Mr M:

- £230 as compensation for loss of use of his vehicle in November 2020.
- £500 compensation for distress and inconvenience caused by its poor communication and delays.
- An amount equivalent to interest* on the settlement value for his car, applied from 1 December 2020 until payment of the settlement value was received by Mr M (believed to be late May/early June 2021).

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. If Aviva considers that it's required by HM Revenue & Customs to take off income tax from any interest due to Mr M, it should tell him how much it's taken off. It should also give Mr M a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold this complaint. I require Aviva Insurance Limited to provide the redress set out above at "*putting things right*".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 May 2022.

Fiona Robinson
Ombudsman