

The complaint

Mr L complains about how Zurich Insurance PLC have investigated the theft of his car, in particular about how they conducted a telephone interview with him on 31 March 2021. He also complains that his claim is still outstanding.

What happened

Mr L had motor insurance for his high value car with Zurich. On 3 January 2021 his vehicle was stolen and Mr L made a claim under his policy for his vehicle. The vehicle was recovered by the police as it was fitted with a tracker.

As part of their investigation Zurich arranged for a claims investigator to obtain a statement from Mr L on 22 January 2021. And on 31 March 2021 he participated in a telephone interview conducted by Zurich. This interview wasn't completed as Mr L had another meeting to attend. The rest of the interview was arranged for 7 April 2021, but this didn't go ahead as Mr L raised a complaint on 6 April 2021.

Mr L's claim hasn't been settled. He's unhappy with how Zurich conducted the interview on 31 March 2021. He's asked for a clear list of questions from Zurich, so he can provide the further information they want, and for a decision to be made on his claim. Zurich have declined his request as they say they want Mr L to provide an open and honest account of the incident, which they believe can only be obtained through a further interview.

Mr L raised a complaint with Zurich which they didn't uphold. They said that they're satisfied with how the interview on 31 March 2021 was carried out and that all their enquiries have been necessary and reasonable. They also asked Mr L to continue to cooperate with the interview process so his account of the incident can be recorded.

When they replied to his complaint Zurich also told Mr L that his vehicle had been inspected and was considered beyond economic repair.

Mr L wasn't happy with Zurich's response and complained to our service.

Our investigator considered the complaint and didn't think that Zurich had been unreasonable in wanting to complete the interview, or in refusing to provide a list of questions for Mr L to answer. And he thought it was fair for Mr L to cooperate with completing the interview to enable his claim to be dealt with.

Our investigator said that it was a condition of Mr L's policy that he must give Zurich '*all the help and assistance we may need*' and must '*provide us with any records, documents, information or evidence that we require*'. And that before the policy conditions are listed, it clearly states '*failure to comply with these conditions may result in your claim not being met*'. He considered the comments that Mr L's representative had made about him being 'a private man' and regarding 'standard questions as an intrusion' but said Zurich had procedures to follow when a claim is made, which they'd not been able to complete. And he felt it was reasonable for these to be completed as some of the details about the theft were still unclear.

Having reviewed the transcript of the interview of 31 March 2021 our investigator considered the questions put to Mr L by Zurich to be reasonable and proportionate. And he didn't feel that Mr L had fully cooperated.

While our investigator accepted that Mr L was frustrated that his claim hadn't been resolved, he felt it was fair for him to complete the interview for the claim to be dealt with. And he said that this would give Zurich the chance to obtain a more open and honest account of what happened to make an informed decision on the claim.

Mr L didn't accept our investigator's opinion.

After our investigator provided their opinion, we asked Zurich if there was a recording of the interview with Mr L from 31 March 2021. And if there is to provide us with a copy. They didn't respond.

The case then came to me and I issued my provisional decision on 2 March 2022. And in it I said: -

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

Mr L's policy requires him to cooperate with Zurich after a claim has been made. It states: - 'You must, when we request, give us a signed description of the circumstances surrounding a loss and provide us with any records, documents, information or evidence that we require.' And 'You must give us all the help and assistance we may need'.

Mr L agreed to be interviewed by investigators appointed by Zurich and this interview took place on 22 January 2021. The interview took 46 minutes and the transcript is 26 pages long. I haven't seen anything that suggests Mr L didn't cooperate with that interview and answer all the questions he was asked. Although I understand that Zurich had wanted the interview to take place by video and Mr L only agreed to a telephone interview. I don't think this really adds anything to my consideration of the case as many people might be uncomfortable with a video interview.

Following this interview Zurich decided there were outstanding issues around the circumstances of the theft of Mr L's vehicle and a further interview was required. It's not in dispute that Mr L wasn't happy to be interviewed further. He provided Zurich with a statement which they felt didn't provide enough detail about the discovery that his car was missing and that he believed the keys had been taken from his locked truck.

Mr L did eventually agree to a further interview. Zurich had wanted this to be done as a video call, which Mr L didn't agree to. And he wanted it to be with one person. In the end it was agreed that the interview would be by telephone with two representatives from Zurich. Mr L describes this interview as an interrogation, and he was extremely upset about how one of Zurich's agents spoke to him. This interview took over an hour and at that point Mr L asked how long it was going to take as he had a meeting to attend. Shortly after this the interview ended and Mr L was due to speak to Zurich again on 7 April 2021. But this didn't happen as he raised a complaint.

I wanted to listen to the recording of the interview to see if Mr L's view on how it was conducted is correct. But Zurich haven't confirmed if a recording is available. I can understand why Mr L was frustrated by the questions put to him. From his point of view, his expensive car has been stolen and recovered by the police, and he doesn't understand the relevance of the questions he's being asked by Zurich. But I also understand that Zurich believe they don't have a clear account of the circumstances of the theft, and there are still

some questions they want to put to Mr L.

The vehicle was stolen in January 2021. Mr L, although reluctantly, has taken part in two interviews which together took almost two hours. Zurich had the opportunity during those interviews to put the questions they had to Mr L.

I don't accept that a further interview is the only way for Zurich to get an open and honest account of what happened. This matter has been outstanding for some considerable time and needs to be progressed.

Recollections fade over time and I think to be fair to Mr L and for Zurich to get the answers to their outstanding questions, they should provide a list of questions for Mr L to answer within a reasonable timeframe. As Zurich had prepared for a further interview on 7 April 2021 I assume their questions can be ready to send to Mr L in 14 days, and I think it would be reasonable for him to provide his answers within 14 days of receiving the questions.

So my provisional decision was that rather than requiring Mr L to agree to a further interview, Zurich should provide him with a list of their outstanding questions which he should answer within 14 days of receiving them.

Since I issued my provisional decision Zurich have provided a recording of the interview with Mr L on 31 March 2021 which I've listened to. They've also made some points about the interview, Mr L's co-operation with their investigation and their outstanding queries.

In relation to the interview they've said the following: -

- When the interview was arranged Mr L was advised to allow up to two hours for the interview to take place.
- Mr L was ten minutes late joining the interview, and after 50 minutes said he had another meeting and left early.
- When leaving he agreed to reconvene to continue and complete the interview process.
- They're not seeking a further interview, but to continue the interview process.
- During the interview Mr L was rude, used foul language and challenged many of the questions raised, often apologising later for his behaviour. It was his conduct during the interview that meant it couldn't be completed succinctly and took the time that it did.

They've also said the Mr L has been reluctant to cooperate with their enquiries from the outset. A high value vehicle has been stolen and it's reasonable for them to obtain an open, honest and dispassionate account from Mr L. They say Mr L knew when he spoke to their claims investigator that this was only to provide an initial statement. And the delays in case have arisen because of Mr L refusing to be interviewed. The interview was only a few weeks after the theft, but Mr L was unwilling to provide a detailed account when asked. He said he didn't know the answers to many of their questions, despite providing a detailed account to the police.

Zurich say that normally with a claim of this nature they'd obtain a statement from the policyholder in person. Due to the pandemic they couldn't do this, and a video interview was put forward as an alternative. Which they say Mr L initially agreed to this but changed his mind on the day of the interview.

They've also highlighted some of the concerns they have about the account Mr L has provided and the outstanding information they require from him.

Zurich say Mr L initially said the vehicle's keys were in his possession, but later said they were stolen from his truck. They want an explanation of how the keys were stolen from the truck without any damage being caused, and how the vehicle was stolen when the police have said the battery was flat.

They also say they have questions about when Mr L last saw or drove the vehicle, where it was parked and how it was discovered to be missing. And they have concerns that Mr L was notified by the tracker company that there was an issue with the tracker, but he told them to take no further action. Then the vehicle was reported as stolen a few hours later.

Zurich accept that the vehicle was recovered by the police. But say that due to the inconsistencies and discrepancies in the information Mr L has provided they should be allowed to complete the interview process to get an open and honest account of the loss and an explanation of their concerns.

They acknowledge that a long time has passed since Mr L made his claim and that memories fade with time. And say this is why they wanted to get the relevant information as soon as possible. They say that being prevented from doing so is a further concern, and they haven't been responsible for the delays.

Zurich have also said that the questions Mr L was asked during his interview were reasonable and proportionate, and that together with Mr L's conduct mean that the best way to resolve his claim, is to continue with the interview. Which will allow them to make an informed decision on his claim.

Finally, they say that providing questions in writing would be impractical and wouldn't guarantee the issues would be satisfactorily resolved. And their experience is the answers given by written correspondence are likely to generate more queries and lead to potentially protracted correspondence.

Mr L has told us that he's been notified by the police that they've completed their enquiries and the thieves are awaiting a date for their court appearance.

What I've decided – and why

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

I want to deal first with the delays in this case. While I accept that these have arisen because Mr L raised a complaint, he was entitled to do this. It's in his interest, as much as Zurich's, for their enquiries to be completed so a decision can be made on his claim. But I can't say Zurich are responsible for the delay in resolving Mr L's claim, as I agree that there's further information he needs to provide about the circumstances of the theft of his vehicle.

Zurich have said that only continuing the interview, that wasn't completed on 31 March 2021, will provide an open and honest account of the circumstances of the theft of Mr L's vehicle.

I considered the interview Mr L gave to the claims investigator in my provisional decision. I don't agree that Mr L has been uncooperative throughout the investigation process. During that interview I think he answered all the questions he was asked as well as he could. Prior to this interview it seems Mr L wasn't aware exactly what had happened to his vehicle or that it had been found stripped. He was understandably quite upset to be told this.

But I accept that a further interview was reasonable, as there were outstanding questions around the circumstances of the theft of Mr L's vehicle.

Having now listened to the recording of the Mr L's interview with Zurich I'm able to comment on what the parties have said.

While it's correct that Mr L was late joining the interview, he apologised and said he'd had technical issues joining. So I don't accept that he intentionally joined late. Zurich refer to him using foul language during the interview. This was in relation to the people who stole his car and he apologised afterwards. I think suggesting that such language was used throughout the interview is misleading.

While I accept that Mr L challenged some of the questions he was asked, I don't think he understood how they were all relevant to the theft of his car. And I think it's fair to say that he was annoyed about being pressed to answer some questions, when he'd already said he wasn't sure of the answer. He also refers to some of the questions as being patronising. But he's said this was the first insurance claim he'd made, and I have to take into account that he's unlikely to be familiar with the enquiries that are necessary, when a claim is made.

Mr L has been told that the police have completed their enquiries and a court date is awaited, although it's not clear how long this is going to take. But we do know that the thieves have been identified, charged and are due to appear in court. This is progress since the date of the interview. But the parties knew the thieves had been caught by the police before the interview in March 2021 took place. So I can see why Mr L wouldn't understand why so many questions about the circumstances of the theft were necessary. And I don't think Zurich explained this as well as they could have done.

I don't think that Mr L ended the interview not intending to join the rescheduled interview. Given that he'd already provided a statement to Zurich's claims investigator, I think it was reasonable for him to think the interview wouldn't take more than an hour. After the interview ended, he clearly reflected on it and raised his complaint. It's not either party's fault that it's taken so long to reach this stage.

I agree with Zurich that there are still outstanding questions that need to be answered about the circumstances of the theft of Mr L's vehicle. But I'm not persuaded that continuing the interview with Mr L is the only way for them to get this information.

As I said in my provisional decision a considerable time has passed since the theft and this matter needs to be progressed. I don't agree with Zurich that providing written questions is impractical, they must know the questions they want to put to Mr L. Nor do I accept that written questions are necessarily going to lead to protracted correspondence.

So I think that Zurich should provide a list of their outstanding questions to Mr L within 14 days, and he should provide clear answers to these within 14 days of receipt.

My final decision

For the reasons set out above, and in my provisional decision, my final decision is that I uphold Mr L's complaint about Zurich Insurance PLC.

And to put things right I require them to provide a list of their outstanding questions to Mr L within 14 days, and Mr L to provide clear answers to these within 14 days of receipt.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 6 June 2022.

Patricia O'Leary
Ombudsman