

The complaint

Mr C has complained about how Aviva Insurance Limited dealt with his motor insurance claim.

What happened

As the background to this complaint is well known to both parties, this is intended as a summary of what has happened.

On 14 September 2021, Mr C was involved in an accident some distance away from his home. He had motor insurance with Aviva and so called from the roadside to claim on his policy. During this call, Aviva told Mr C his car would be written off (known as a total loss) and said it was valued at £1,784.

After speaking with Aviva, Mr C decided to use a hire car company to provide a hire car rather than using his enhanced courtesy car insurance cover. However, Mr C experienced a number of problems with this which included not being provided with a suitable hire car for some time and issues with returning it.

Aviva arranged for its salvage agent, who I will refer to as P, to collect Mr C's car. P, on Aviva's behalf, valued Mr C's car at £1,860. As Mr C did not think this was enough, P increased its valuation to £2,123. After further discussion with Mr C, P passed the valuation back to Aviva to deal with on 25 October 2021.

Mr P said he received a cheque from Aviva in March 2022 but did not know what it was for as he had not agreed a settlement amount. Aviva later ultimately valued Mr C's car at £3,340 which he accepted.

Mr C complained to Aviva.

Aviva said that Mr C had been provided with a hire car under a credit hire agreement with a separate company, which I will refer to as E. It said that while it had made the referral to E, it was not responsible for E's actions and therefore could not consider Mr C's complaint about it.

Aviva said that during the referral to E it had let Mr C know that any courtesy car would be a five-door, five seat car. But Mr C said this would not be suitable due to his height.

With regard to how it had handled the claim, Aviva said the activity on Mr C's case was incorrectly closed in October 2021 when the valuation was passed to it from P. It remained closed until February 2022. It said its in-house engineer increased the valuation on 5 April 2022 but did not inform Mr C. Aviva then raised the additional payment on 6 April 2022. Aviva said when a car has a cherished plate, as Mr C's had, it is essential that the correct process is followed to ensure that the cherished plate is not lost.

Aviva accepted that there had been delays in dealing with Mr C's claim and offered him £250 compensation for the distress and inconvenience, as well as interest on the settlement

amount to compensate him for being without the money that he should have had.

Unhappy with Aviva's response, Mr C brought his complaint to our service. Mr C said that when calling Aviva immediately after the accident it did not give him clear information about his options. He said he was told that the enhanced courtesy car would be a 1.2L and did not explain that the referral to E would involve a separate credit hire agreement. Mr C said that he received threatening letters from E about scrapping his car with the cherished plate, even though he was communicating with them about his cherished number plate. He said that the DVLA had not been notified of the car being a total loss until April 2022 which meant that he had been liable to pay more road tax than if his car had been declared a total loss to the DVLA in September 2021. Mr C said that the DVLA had informed him that he would be reimbursed any additional amount once Aviva had confirmed when the car had been written off.

Mr C said there had been a lack of clarity, poor communication and chaotic organisation from the parties involved.

Our Investigator looked into Mr C's complaint but thought Aviva had offered enough compensation to put things right. She did not think Aviva had properly referred Mr C to E but thought he would most likely still have used E, even if the referral had been clearer. She said that Aviva had ultimately provided a fair valuation of Mr C's car.

Mr C said that when he called to report the accident, Aviva was more interested in trying to get him to accept the valuation of his vehicle than in supporting him. He said that Aviva told him he only had cover for a 1.2L vehicle and he thought he had paid a premium for a larger vehicle due to his height and mobility issues. Mr C said P sent him threatening letters about the disposal of his vehicle and both P and Aviva stopped communicating with him for several months. He did not think our Investigator had addressed the issue about the additional road tax he'd needed to pay due to Aviva's delays.

As Mr C did not accept our Investigator's view, his complaint was passed to me for a decision.

I issued a provisional decision on this complaint on 14 June 2023 explaining why I intended to uphold Mr C's complaint. 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 C has made a number of detailed points. While I have considered them all, I am not going to respond to each one in this decision and will instead focus on what I consider to be the central issues.

The referral to E

When Aviva referred Mr C to E it was obliged to provide him with information that was clear, fair and not misleading, in line with its obligations under Principle 7 of the FCA Handbook: Communications with clients (see PRIN 2.1R The Principles) and ICOBS 2.2.2R (Clear, fair and not misleading rule). In the circumstances of this case, this means that when Mr C contacted Aviva it ought to have provided him with clear information about his options, so he could decide how best to proceed.

I've listened to a call where Mr C informed Aviva about the accident. Mr C asked if Aviva was going to sort out the hire car for him. Aviva says that Mr C has enhanced courtesy car cover under his policy which is a five-door, 1.2L car.

Aviva went on to say that if Mr C provided the registration of the third party vehicle “we could provide you with a similar sized like for like vehicle” which would be billed to the third party insurer. It said, without those details, Aviva could provide a five-door, five seat courtesy car but it would be Aviva paying for it. Mr C clarified this with Aviva at the end of the call. Aviva said that once it had the third party details it could send a referral to E which it preferred both as an insurer and for Mr C “as you don’t want this to be a fault claim”. Aviva said it could arrange a vehicle for Mr C but it would not be the same as his. Mr C said that wouldn’t “work”.

Mr C called Aviva back the following day with the details of the third party vehicle and asked about arranging the hire car. Aviva said:

“We can pop you in touch with E and they can look to provide you with what’s called a non-fault hire vehicle, so it would be a vehicle they would obviously lease to you and charge that cost directly back to the other driver’s insurance”.

Later in the call, after Mr C queried whether he had a larger hire car under his policy, Aviva said:

“This isn’t your own entitlement under the policy. This is what we call a non-fault hire car, so rather than you using a car from your own policy and paying it off your own policy it’s a charge that is automatically charged back to the other driver’s insurer”

In my view, this did not provide Mr C with clear, fair and not misleading information. Aviva did refer to E by name and tell Mr C that the costs would be claimed directly from the third party insurer. However, it also said “we” can provide you with a like for like car when I think it was referring to E. I think this was unclear. When Mr C asked further questions, Aviva also clarified that it would not be providing a car under his own policy. But it did not tell Mr C that he would be entering into a credit agreement with E for the hire car or that he might not have any recourse to complain to Aviva, or our service, if he was not happy with the car or if anything else went wrong. I think Aviva only explained the benefits of using E, such as a like for like car, but it did not explain any disadvantages. I would expect a referrer to explain both the advantages and possible disadvantages of using E in a balanced way to enable them to choose which option they would like to use.

However, even though I do not think the referral was good enough I have considered the impact of this on Mr C.

Mr C’s policy says that if the policyholder’s vehicle cannot be repaired a courtesy car will be provided for up to 14 days or whenever the settlement is received, whichever is sooner. The policy describes enhanced courtesy car cover as providing a “Five-door vehicle with five seats”. I haven’t seen anything to persuade me that the information given about the size of the car was incorrect as the policy does not refer to providing a like for like car, or that it will provide a car with a bigger engine.

It’s clear from the calls that Mr C wanted a bigger car than the one available through his policy, as he said that the one available through his policy wouldn’t work. He has also told us that he needs a larger car due to his height and mobility problems. I appreciate with the benefit of hindsight Mr C believes that he would not have taken the car through E, but I’m not persuaded of that given his requirement for a bigger car. It’s impossible to know for sure what would have happened if Mr C had been provided with clear information so I have to consider what I think is more likely, and as a bigger car wasn’t available under his policy, I think it’s most likely he would still have chosen to use E. I recognise that E also didn’t provide Mr C with what he considered to be a suitable vehicle but as this isn’t something

Aviva would have known when it referred him to E, I'm not persuaded that would have affected him in making the choice to use E.

As E is a separate company, I cannot hold Aviva responsible for anything that went wrong. And as I believe Mr C would still have used E, I do not think it would be fair and reasonable to require Aviva to compensate Mr C for the distress and inconvenience caused by E.

However, I do think that it was distressing for Mr C to find out that he had entered into a credit hire agreement and that neither Aviva nor our service could look into his complaint about E, so I do think the referral being unclear caused him some unnecessary distress. I think it would be fair and reasonable for Aviva to pay Mr C compensation for this.

The claim

It's clear that Aviva did not handle Mr C's claim as well as it should have done. After initially valuing his car too low, it also caused delays. Mr C confirmed that he isn't complaining about Aviva's [final] valuation of his car but I understand that he is unhappy that Aviva was keen to value his vehicle and offer a settlement during the first notification of loss call.

While I can appreciate that many people might wish to settle their claim quickly so they can purchase a new vehicle, I would only think this was fair and reasonable if Aviva was to make a fair offer to settle the claim. In this case, I can understand Mr C's frustration because, given that it ultimately offered nearly double the original amount, I do not think Aviva's initial offer of £1,784 was fair and reasonable. I do not think it was made clear to Mr C that the offer was a starting point. For example, Aviva only offered to put the offer in writing to Mr C after he asked if he could think about it. While Aviva has now paid Mr C a fair value for his car, I think it's initial offer caused him distress and I think it is fair and reasonable that Aviva compensates him for this as well.

Mr C said that he received threatening letters from P. I understand these are automated letters which are sent to set out what will happen if the cherished plate is not removed. I can understand Mr C's frustration, given that there are emails to P explaining to P that he was waiting to hear from the DVLA about his cherished plate. Therefore, I don't think it was accurate for P to say that it had made numerous attempts but not been able to get in touch with Mr C. I do think that P needs to issue reminders that make it clear what will happen if information is not received but in this particular case I think Mr C had let P know. I have taken this into consideration when deciding on the amount of compensation I think it would be fair and reasonable for Aviva to pay.

I understand the DVLA has informed Mr C that it will reimburse his tax when Aviva confirms that his car was declared a total loss in September 2021. Our Investigator has asked Aviva if it has provided this information to the DVLA. Aviva said it appeared that Mr C had communicated with the DVLA directly but it could provide him with a letter to give to the DVLA. I think this offer is fair and reasonable. However, if Mr C demonstrates that he is unable to recover his tax between September 2021 and April 2022 then I think it would be fair and reasonable for Aviva to reimburse him for the additional tax during this time. This is because, I think Aviva's delay in providing a fair valuation for his car will have caused him a financial loss that he wouldn't otherwise have had.

I'm pleased to see that Aviva has offered Mr C 8% simple interest for the time he was without the settlement due to the delays Aviva caused. I think this is fair and reasonable as it is in line with what our service would award.

I can see that Aviva has offered to consider a claim for Mr C's accommodation for the first night of the accident. As the policy says it can cover up to £150 for overnight

accommodation, I think Aviva's offer to consider this is reasonable as it is in line with the terms and conditions of the policy.

Overall, I do not believe that Aviva acted fairly and reasonably in how it dealt with Mr C's claim and think it should increase the amount of compensation paid to reflect this. I think Aviva's offer of £250 was fair and reasonable to compensate for the delays and confusion caused in settling the claim. However, I think it needs to pay additional compensation for the reasons set out above. I think Aviva should pay Mr C an additional £200 to the amount it has already offered. This means it should pay Mr C a total of £450 compensation for his distress and inconvenience."

In summary, I said that Aviva should:

- Pay Mr C a total of £450 compensation for distress and inconvenience.
- Provide Mr C with a letter to give to the DVLA to show that his car was written off in September 2021. If Mr C is unable to recover his road tax between September 2021 and April 2022 from the DVLA Aviva should reimburse him for this.
- Add 8% simple interest to the settlement for his vehicle, if it has not already paid this.

Aviva initially responded to say that it believed the issue of Mr C recovering his road tax was a new issue that he had not previously raised. It was concerned that I had increased the compensation to take account of this and said that it had written to Mr C in September 2021 and February 2022 to ask him to send in his V5 document.

I let Aviva know that I thought I could consider the issue of the road tax because I believed that it was a consequential loss of the delays in settling Mr C's claim rather than a new issue. I also clarified that the additional £200 compensation I intended to award was not due to Mr C's difficulty in claiming his tax back but for other errors such as the poor referral to E and the distress caused by the initial low valuation of his car.

Aviva maintained that the issue of Mr C recovering his road tax was not a consequential loss of delays as the matter had been handled by Mr C himself. It said if Mr C had sent Aviva a copy of his documents the normal process would have been followed. It said Mr C failed to act promptly regarding his cherished plate which meant that his car remained in storage for over 200 days.

Aviva accepted that the referral to E could have been clearer but said that as Mr C would most likely have still used E it was unclear why compensation was required. With regard to the valuation, it said the claims team used a valuation tool to confirm the amount so Mr C could be made aware of the potential value. It said that the tool does not take account of the condition of the vehicle and may be limited if there are limited examples for comparison in the marketplace. Aviva said its claim handler was only trying to be transparent about the potential value and did not think that warranted compensation.

I asked Mr C why he had not sent his V5 to Aviva in September 2021. He said he had understood that communications regarding his cherished plate had been from P, who had been appointed by Aviva to support him with retaining his cherished plate. He said the DVLA were clear in calls that once the total loss process had been completed it would calculate the refund from the date of the accident.

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.

Having considered the information provided by Mr C and Aviva I have not been persuaded to depart from the outcome I reached in my provisional decision. I will explain why.

Referral to E

I do not intend to repeat the findings set out in my provisional decision above. However, I remain of the view that even though I believe that Mr C would still likely have used E due to his need for a bigger car, Aviva not providing him with clear, fair and not misleading information caused him distress and inconvenience. He was distressed to learn that he had entered into a separate credit hire agreement and that he cannot complain to Aviva or our service about the actions of the E. I do not think Mr C would have experienced the same amount of distress or inconvenience if he had been given clear information to enable him to make a balanced choice about whether he wanted to use E.

Initial valuation

I have listened to a call where Aviva told Mr C the initial valuation of his car. The claim handler said:

“With regards to the vehicle valuation...based on the mileage for a [year/make of car] we'd be looking to make a payment to yourself of £1,784...what we can do is your excess will be deducted from that...and the rest will be paid to yourself. Are you happy for me to get that payment raised to you today?”

Mr C asked if he could think about it and what options he had. Aviva's claim handler said:

“If I raise it today it will be in your account sooner. So the total amount of £1,434 will be put into your account and that should be with you tomorrow afternoon. I can send it to you in writing, I'll send an email to yourself just confirming the total loss of the vehicle and the next steps and then it will be a case of contacting us back when you're ready and we'll get the payment raised.”

Mr C asked for the valuation to be sent as an email which Aviva agreed to. Mr C asked Aviva to confirm the amount and Aviva reiterated that the amount to be paid was £1,434.

I'm unsure how Aviva expected Mr C to know from this call that this was an initial valuation using a tool which was potentially limited and did not take account of the vehicle condition. I understand that it would be helpful for an insured to be able to accept a value for their vehicle quickly but I do not agree that this call explained the valuation in a transparent way. While I cannot make an award for what could have happened, if Mr C had accepted this valuation he would have accepted around half of what he ultimately received. I think it would be extremely distressing for Mr C to think his car was worth around half of what it was as he would have had the worry about how to replace it. He also has the inconvenience of needing to follow up this low valuation to get a more accurate one. Taking all of that into account, I remain of the view that, in this particular case, it is fair and reasonable for Aviva to compensate Mr C for this.

Tax refund

When he complained to our service, Mr C told us that he had not been able to claim a full refund from the DVLA because the total loss date of his vehicle had been given as April 2022 rather than September 2021, which was the date of the accident. He said that he'd been informed by the DVLA that once Aviva confirmed that the total loss date was

September 2021 it would use that date to calculate the refund.

Aviva said that it wrote to Mr C in September 2021 and again in February 2022 to let him know that he needed to send it a copy of his V5. Aviva said that if Mr C had done this it, or P, would have been able to notify the DVLA of the total loss date.

Mr C said he thought the DVLA process had been managed by P rather than Aviva. He provided a letter from P dated February 2022 which says it has been appointed to support him in retaining his cherished plate.

I have not been provided with a copy of the email Aviva sent to Mr C in September 2021 but, even if it was sent, I do not think it would be fair and reasonable for me to conclude that any error in not providing a copy of the V5 until 2022 was mainly Mr C's fault. At that time, Mr C was negotiating the valuation of his car with P and this was then passed back to Aviva. His claim settlement was ongoing and Aviva then incorrectly closed the claim until February 2022.

Ultimately, if Aviva had dealt with Mr C's claim promptly and not caused delays by incorrectly closing the action on it I think that his tax refund would have been processed sooner as he would have understood what he needed to provide sooner. Therefore, I remain of the view that any losses in relation to this are a consequential loss of the delays and so something which I can consider as part of this complaint. I have not included any error here in my award of compensation for distress and inconvenience. But, as I think the delay in settling the road tax was predominantly caused by Aviva's delays, I remain of the view that it is fair and reasonable for Aviva to provide a letter for Mr C to give to the DVLA to confirm the total loss date was September 2021. If, after presenting this letter to the DVLA, he provides confirmation to Aviva from the DVLA that the tax cannot be refunded, I think it is fair and reasonable for Aviva to reimburse him for this.

Putting things right

I believe that the fair and reasonable outcome to this complaint is for Aviva to:

- Pay Mr C an additional £200 compensation for distress and inconvenience, meaning it should pay him a total of £450 if it has not already paid the £250 it offered.
- Provide Mr C with a letter to give to the DVLA to show that his car was written off in September 2021. If Mr C provides Aviva with evidence from the DVLA to show that he is unable to recover his road tax between September 2021 and April 2022, Aviva should reimburse him for the road tax between these dates.
- Add the 8% simple interest which it offered due to the delayed settlement for his vehicle, if it has not already paid this.

My final decision

My final decision is that I uphold this complaint and require Aviva Insurance Limited to do as set out in the 'Putting things right' section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 28 July 2023.

Sarann Taylor
Ombudsman