

The complaint

Miss C complains that when she made a motor insurance claim, Zurich Insurance PLC would only pay the 'agreed value' of her car and would not pay to have it repaired.

What happened

In March 2022, Miss C took out a fully comprehensive motor insurance policy with Zurich. The policy offered cover up to an 'agreed value'. In this case, the agreed value was £8,000.

On 22 October 2022, Miss C's car was damaged by a third-party while it was parked.

On 27 October 2022, Miss C was contacted by the third-party's insurers who said their driver had accepted fault. The third-party insurer said it would not be economical to repair Miss C's car and offered to pay her the market value for the vehicle. Miss C says the third-party insurer said the amount would have been £13,900 or £10,947 if Miss C wanted to keep the car.

Miss C did not accept what the third-party insurer said and so she contacted Zurich. She says she wanted Zurich to pursue the third-party insurer on her behalf. However, Zurich also decided that it was not economical to repair Miss C's vehicle. It offered to pay £8,000 to settle the claim. If Miss C wanted to keep the car, it said it would pay £6,000.

Miss C did not accept Zurich's offer. She said her car was repairable. She said the market value of her car was £13,900 as set out by the third-party insurer. She had a personalised number plate which she said was worth £20,000. Adding that together, Miss C valued her car at £33,900. As the cost of repairs was said to be around £16,247+VAT, Miss C said her car should be repaired.

Zurich did not uphold Miss C's complaint and so she complained to this service. Miss C told us that her policy schedule showed that the agreed value and the cost of repairing her vehicle could be paid at the same time. Miss C told us that cars like hers had increased in value since her policy started and it would be hard for her to find another similar vehicle.

Our investigator didn't think the complaint should be upheld. Miss C did not agree with that view and the matter was passed to me to make an ombudsman's 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.

I am sorry to hear that dealing with all of this has caused Miss C a lot of stress. It is clear from reading the file that her car means a great deal to her. I've considered all the issues raised in the complaint very carefully, but I'm afraid I haven't upheld the complaint. I'll explain why.

First of all, I want to be clear about the remit of this service and explain what we can and cannot consider. Looking through the file, I can see Miss C has gone to a lot of effort to research 'tort law', more specifically the tort of negligence. I know that she feels strongly that I ought to consider her representations on this point in my decision.

I know Miss C will be disappointed, but it is not for me to determine whether the third-party driver, third-party insurer or Zurich was negligent or tortious in any other way – that would ultimately be for a court to decide. My role is to determine what is fair and reasonable after taking account of all the circumstances in the complaint.

In addition to that, and as our investigator said, I can't look at what happened with the third-party insurer. That's because when I'm considering a complaint, I am bound by the rules that apply to this service. These rules are known as the DISP rules and they are available online in the Financial Conduct Authority's handbook. The DISP rules say that I can only consider Miss C's complaint about a financial business if she is a customer of that business. As Miss C isn't a customer of the third-party insurer, I can't consider a complaint about that business.

I know Miss C was keen to point out that she didn't want Zurich to settle her claim. Instead, she wanted Zurich to pursue the third-party insurer on her behalf. However, when a person's vehicle is involved in an accident that isn't their fault, they have a number of choices about how to pursue a claim against the 'at fault' party. For example: they could recover the costs from the third party's insurer directly (which it looks like Miss C attempted at first); or they can make a claim on their own motor insurance policy.

In this case, I know the essence of Miss C's dispute is that her car was worth more than the agreed value paid by Zurich. As far as I can see, Zurich isn't obliged to pursue the third-party insurer on Miss C's behalf. It is possible that the difference between the agreed value and the market value is an uninsured loss. I understand Miss C has legal expenses insurance and instructed solicitors to act for her to recover her uninsured losses.

With that in mind, the issue for me to consider is whether Zurich's actions were fair and reasonable in all the circumstances of the complaint. The first thing I've thought about is whether it was fair for Zurich to settle Miss C's claim based on the agreed value of £8,000.

The terms and conditions that apply to Miss C's policy say that where her vehicle is deemed a 'total loss' and the car is insured on an 'agreed value' basis, the insurer will pay the value shown on her valuation certificate. I can see that to determine the agreed valuation, Miss C had to send various photographs of her vehicle. And the day after her policy started, a valuation certificate was sent to her showing the agreed value of the car was £8,000.

With all of this in mind, I think it would have been clear to Miss C at the time the policy was taken out that the maximum Zurich would pay if her car was a total loss would be £8,000. I appreciate that Miss C says her car had increased in value since the policy started, but the policy doesn't allow for an increased value to be paid unless it had been agreed in advance.

Miss C argued that the policy required Zurich to pay the agreed value *and* repair her vehicle. However, I can see the policy says the most Zurich will pay is the agreed valuation. I haven't seen anything in the policy documentation to suggest Zurich will pay for repairs in addition to an agreed valuation.

Miss C told us that, including the number plate, her car was worth £33,900. She valued the number plate at roughly £20,000. But in a situation like this, Miss C would be able to retain her number plate and registration, so I don't think she has lost the value of that in any event.

I know Miss C feels very strongly about her complaint and she wants to keep her car and have it repaired. She feels aggrieved that the settlement offered by Zurich will not cover the cost of the repairs. I do appreciate that Miss C's car means an awful lot to her, but I can't say that Zurich did anything wrong when it said it would base its settlement on the agreed value of £8,000. As the quote to repair the car is considerably more than that, I can't say it was wrong of Zurich to deem the car a total loss.

As Miss C wants to retain the car (or 'salvage'), Zurich has deducted £2,000 from the settlement, which means it would only pay £6,000 to settle the claim. I can't say it was unfair for Zurich to make a deduction for the 'salvage'. That's because Zurich would have been

able retain the damaged vehicle if Miss C did not. The policy document also provides for Zurich to make a deduction in these circumstances.

With all of this in mind, I know Miss C will be disappointed with my decision, but I'm afraid I haven't upheld her complaint.

My final decision

I don't uphold this complaint about Zurich Insurance PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 17 January 2024.

Nicola Bowes
Ombudsman