

The complaint

Mrs G complains about Acromas Insurance Company Limited ("AIC") and their decision to decline the claim she made on her motor insurance policy.

What happened

Mrs G held a motor insurance policy, underwritten by AIC. The events that occurred when Mrs G made a claim on this policy are well known to both parties and so, I don't intend to list them in detail. But in short, Mrs G made a claim for damage she felt occurred while her car was parked in a retail car park, when she was inside the shop and wasn't witness to the incident.

AIC attempted to validate Mrs G's claim but ultimately decided to decline it, stating the claim was fraudulent, false, or exaggerated, as they felt the damage being claimed for was pre-existing from a third-party claim they processed around January 2022. Mrs G was unhappy with this decision, and the service AIC provided during the claim process. So, she raised a complaint.

Mrs G didn't think AIC acted fairly when declining the claim, as the car had no damage when she purchased it the month before. Mrs G was also unhappy with the delays she'd experienced during the claim and that she'd been required to return her hire car without having her damaged car returned to her first.

AIC responded to the complaint and upheld it in part. They thought their decision to decline the claim was a fair one, in line with the terms and conditions of their policy. But they agreed there had been a delay in paying the storage costs, which delayed the return of Mrs G's car. So, they offered Mrs G a payment of £50 to recognise any inconvenience this caused. Mrs G rejected this payment and referred her complaint to us.

Our investigator looked into the complaint initially and upheld it. They thought AIC's decision to decline was a fair one, in line with the terms of the policy. And they thought another insurer would most likely have taken the same action in the same circumstances. So, they didn't think this decision should be overturned. But they didn't think the £50 offered by AIC was enough to compensate Mrs G for the delays she experienced and so, they thought AIC should pay Mrs G a further £150, on top of the £50 already offered.

Mrs G didn't agree, providing several comments explaining why. These included, and are not limited to, her belief that it was unfair for AIC to decide her claim was fraudulent when they had failed to obtain CCTV footage that would've shown the incident and the damage caused.

Our investigator considered Mrs G's comments. And they returned to AIC for information surrounding the request for CCTV footage. Our investigator thought about the above and issued a second outcome recommending AIC pay an additional £250, rather than the £150 they originally recommended, to account for AIC's failure to request the CCTV footage. But they explained their view regarding the claim decline remained the same, as they were unable to speculate on whether the footage was available, and what this footage would've shown.

Mrs G continued to disagree, for the same reasons she'd already made clear in the main. As Mrs G didn't agree, the complaint has been passed to me for a 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.

Having done so, I'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I want to recognise the impact this complaint has had on Mrs G. I want to make it clear I am in no way disputing Mrs G's testimony on what she feels happened in the retail car park, and how this led to the damage she claimed for. And I recognise the significant impact having her claim declined on the basis it was fraudulent, false, or exaggerated has had on her, both emotionally and financially. So, I do understand why Mrs G feels unfairly treated and why she's raised a complaint.

But for me to say AIC should reverse their claim decision, I first need to be satisfied that, based on the evidence available to AIC at the time, the decision they made failed to fall in line with the terms and conditions of the policy Mrs G held. Or, if I think it did act within these, that AIC acted unfairly in some other way. And when considering the fairness of AIC's actions, I've thought about what I think another insurer is most likely to have done, in the same circumstances. And having considered all the above, I don't think I can say AIC have done something wrong regarding the claim decline. And I'll explain why.

I also think it's important to make clear that it's not my role to speculate on how the incident occurred, and what damage was caused, as I wasn't present at the time. So, this isn't something I intend to do.

And I think it's important to note that when any claim is made on an insurance policy, the insurer is entitled to take reasonable steps to validate the claim. And this includes ensuring the claim itself is covered under the policy they provide.

In this situation, I can see AIC were unable to validate the claim and, on this basis, chose to decline it. I've read through the terms and conditions of the policy at length, and I've seen under the fraud section it states, *"we may refuse to pay the whole of your claim if any part is in any way fraudulent, false, or exaggerated and recover costs from you and costs that we have incurred"*. So, I've thought about the evidence available to AIC when they made the decision to decline the claim under this policy term.

I've seen the inspection report from the independent engineer who inspected Mrs G's car. And within this report, the engineer stated that the damage to Mrs G's car *"appears old standing to the corrosion noted and is similar in nature to the previous damage stated on the engineers report provided"*. As this engineer was the expert, I think AIC were fair to take this opinion into consideration when validating the claim. And I think AIC took more than reasonable action by instructing a separate, independent validation company, who I'll refer to as "B", to consider the reports and photos from the damage in January 2022 and Mrs G's claim in December 2022, to consider whether the damage being claimed for was pre-existing.

I've seen the report from B, which states *"there is no evidence of additional damage having been caused to the vehicle following the January 2022 incident"* as well as *"the damage is*

not consistent with having been caused in the alleged incident". So, I think this report provides an expert opinion which stated that the damage Mrs G was claiming for was most likely pre-existing from a separate claim AIC had been involved with earlier in the year. And as this opinion was provided by an independent expert, I don't think I can say AIC were unfair to rely on this, as I think another insurer would've most likely done the same.

And because of this, I don't think I'm able to say AIC were unfair to rely on the policy term I've quoted above referring to a fraudulent, false, or exaggerated claim, as the evidence available to them suggested that Mrs G was claiming for damage already present on the car before the incident she stated happened in the retail car park.

I recognise Mrs G doesn't agree, and that she feels strongly there was no damage present when she bought the car. But Mrs G hasn't been able to provide photographic evidence to show the condition of her car from when she bought it, up to the date of the alleged incident. And while I note Mrs G feels she has a witness who can support her testimony, this witness is known to Mrs G and so, can't reasonably be considered to be independent. So, I wouldn't expect this witness testimony to influence the decision AIC reached, or the decision I've made here.

And while I note Mrs G feels there was CCTV footage to support her position, I note this CCTV footage hasn't been made available. I do think AIC should've done more regarding this, and I think they were unfair not to request it in December 2022, as their claim notes made clear this was their intention. So, I will discuss this failure, and what AIC should do to compensate for this, later within the decision. But crucially, the failure to obtain this footage alone does not mean the claim decision AIC reached was unfair.

This is because I'm unable to say for certain this footage was available. Or even if it was, that it would show the alleged incident. I note Mrs G didn't notice the damage until the following day, and that the incident was alleged to have happened the previous morning. So, there was around a 24-hour period where the damage may have occurred, and there is nothing to suggest for certain it did happen in the retail car park where footage could've been requested. In Mrs G's own testimony to AIC, she confirmed when she returned to her car in the retail car park, she didn't notice the damage. So, I do think this means it's impossible to say for certain this is where an incident took place.

So, because of the above, I think AIC acted in line with the terms of the policy Mrs G held when declining the claim for the reasons they stipulated. And I think they acted fairly when doing so, based on the evidence they had available to them. So, I don't think they need to do anything more for this aspect of the complaint.

And as the claim was declined, I'd expect AIC to request the return of the hire car Mrs G was in, as she was then liable for additional costs which included any further hire charges. So, I think they were fair to request the return of this hire car, even though it left Mrs G without transport.

But as I've explained above, I do think AIC could've been more proactive in attempting to obtain the CCTV footage. And it's been accepted by AIC already that there were delays in the claim process, which included their failure to pay storage costs meaning Mrs G's car was released back to her later than it should've been. So, I do think AIC were both unfair and unreasonable in the service they provided and so, I've turned to what I think AIC should do to put things right.

Putting things right

Any award or direction I make is intended to place Mrs G back in the position she would've

been in, had AIC acted fairly in the first place. In this situation, I think AIC would most likely have always declined the claim. So, I won't be asking AIC to reverse this decision.

But had AIC acted fairly, I think they would've requested the CCTV footage and by not doing so, Mrs G lost the opportunity for this footage to be considered as part of the claim she made. So, I think she should be compensated for this loss of opportunity.

And had AIC progressed the claim as I would've expected, I think it would've been concluded sooner, and that Mrs G would've received her car back quicker which in turn would've allowed her to take the action she wanted regarding the car, whether that was to arrange repairs herself or seek its scrap value considering it was deemed a total loss. So, I think she should be compensated for the distress and inconvenience this caused.

Our investigator recommended AIC pay Mrs G an additional £250, on top of the £50 already issued to Mrs G by cheque, taking the total compensation amount to £300 to recognise the above. And I think this recommendation is a fair one, that falls in line with our services approach and what I would've directed, had it not already been put forward.

I think it fairly recognises the service failures, and the emotional distress Mrs G has been caused wondering whether the CCTV footage would've impacted the claim decision or not. But in the same respect, it fairly takes into consideration the fact there is no guarantee the CCTV footage would've provided information that supported Mrs G's testimony regarding the claim, considering the expert opinions that were obtained. So, I'm directing AIC to pay Mrs G a total of £300 compensation.

My final decision

For the reasons outlined above, I uphold Mrs G's complaint about Acromas Insurance Company Limited and I direct them to take the following action:

- Pay Mrs G an additional compensatory amount of £250, which is on top of the £50 cheque already issued. If Mrs G no longer has this cheque available to cash, I would expect AIC to issue another cheque to ensure the total amount paid equates to £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 21 December 2023.

Josh Haskey
Ombudsman