

The complaint

The Estate of Mr H (The Estate) complains about how Liverpool Victoria Insurance Company Limited (LV) dealt with a claim for the loss of its vehicle under a motor insurance policy.

Any reference to LV in this decision includes their agents.

This complaint was first brought by Mr H to this Service in May 2023, supported by a representative. Sadly, Mr H passed away in July 2023, during the course of this Service investigating the complaint. The executor of the Estate has confirmed they wish to continue the complaint and for the representative to act for them on behalf of the Estate.

References to the Estate in this decision include the representative. Events before the passing of Mr H refer to Mr H, while events after his passing refer to The Estate.

What happened

In September 2022 Mr H's vehicle was involved in a collision with a third party vehicle, sustaining damage to the rear, offside. Based on an in-house assessment of the damage from photographs, LV deemed the vehicle to be a total loss as the estimated repair costs significantly exceeded the market value. They also deemed the vehicle a Category B total loss, meaning the cost of repairs exceeded the vehicle value and the vehicle was judged to have suffered severe damage that couldn't be repaired. The vehicle could be stripped for parts but the chassis and/or body shell had to be scrapped as the vehicle may have suffered serious or irreparable damage. The vehicle couldn't be re-sold or returned to the road.

Mr H disagreed with the assessment of his vehicle as a Category B total loss. LV responded by arranging for a second engineer (H) to inspect the vehicle, which they did later in October 2022. H confirmed the assessment of the vehicle as a Category B total loss. LV told Mr H they valued the vehicle at £2,000. Deducting the excess of £225 left a net settlement of £1,775 which LV paid Mr H in October 2022. LV also said they would be recording the vehicle as a total loss on the Motor Insurers Anti-Fraud and Theft Register (MIAFTR) and would update the Motor Insurers Database (MID) to show the vehicle was no longer insured.

Mr H continued to disagree with LV deeming the vehicle a Category B total loss, rejecting LV's settlement, saying he would return it. He engaged his own engineer (N) to inspect the vehicle, in November 2022. In their report (December 2022) they concluded the vehicle had suffered moderate damage to the offside. They estimated repair costs at £9,276 against an estimated vehicle value of £2,050. In their opinion the vehicle could be classified a Category S total loss and repaired to a satisfactory standard by an appropriately qualified repairer and then returned to the road.

LV considered the report from N but stood by their decision to categorise the vehicle as a Category B total loss (January 2023). They also noted their estimate of the costs of repairing the vehicle (£7,670) compared to the vehicle valuation (£2,000).

Unhappy at the decision, Mr H complained to LV. He said LV's assessment of the vehicle as a Category B total loss was an in-house assessment based on photographs of the damaged

vehicle, not a physical inspection. N's report and assessment of the vehicle as a Category S total loss was based on a professional, physical inspection of the vehicle.

LV weren't able to respond to Mr H's complaint within the eight week period businesses have to respond to consumer complaints, so they informed him of his right to bring his complaint to this service.

Mr H then complained to this Service (May 2023). He disagreed with LV classifying his vehicle as a Category B total loss, given N's report saying it could be classified a Category S total loss, which he wanted LV to accept. At the time of bringing his complaint he'd been without use of his vehicle for over six months and suffered considerable inconvenience and expense. He wanted LV to agree to him buying back the vehicle, amend the MIAFTR record, reinstate the vehicle registration and confirm he retained ownership of the vehicle.

Subsequent to Mr H's complaint, LV issued their final response (June 2023). LV said the initial decision to deem the vehicle a Category B total loss was made by their in-house engineer. As Mr H was unhappy with the decision they appointed H to assess the vehicle, which confirmed the initial assessment of a Category B total loss. So, LV confirmed their decision. As this meant the vehicle was no longer legal for Mr H to drive or own without a breaker's licence, LV offered to collect the vehicle and taken to a salvage agent.

Our investigator then considered the complaint, but didn't uphold it, concluding LV didn't need to take any action. LV had settled the claim for damage to the vehicle on a total loss basis and the report from H concluded the vehicle was a Category B total loss. As such, the Association of British Insurers (ABI) Salvage Code required the vehicle chassis and structural frame to be destroyed, but other parts considered safe could be sold. So, the vehicle couldn't be kept for repair and returned to the road. LV had offered to sell the vehicle to The Estate of Mr H for £299, on condition he showed a breaker's licence indicating the vehicle had been destroyed. The investigator considered this fair.

The Estate disagreed with the investigator's view and requested an ombudsman review the complaint. It said Mr H never agreed to the settlement made by LV and clearly stated his intention to retain the vehicle and repair it. The Estate also pointed to LV's 'Frequently Asked Questions' that stated payment of a settlement didn't mean acceptance of the settlement. The Estate referred to the ABI Salvage Code (Section 3.3) which stated an Appropriately Qualified Person (AQP) as provided by the Institute of Automotive Engineer Assessors (IAEA) must categorise the vehicle and be identifiable by their competency based unique identifier. N was an AQP – but the LV assessor didn't have this identification.

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'd first want to express my sympathies to the family and representative of Mr H for his passing during the course of his bringing his complaint to this Service. I recognise the impact this would have had on them, adding to the sentimental value of the vehicle from Mr H having the vehicle from new and transferred to him from the company he worked for as part of his retirement package. I've borne these things in deciding, as is my role here, whether LV have acted fairly towards The Estate.

The main issue in the complaint is the categorisation of the vehicle by LV as a Category B total loss. Whereas The Estate believes, based on N's report, the vehicle should be classified as a Category S total loss. The importance of the difference is that a Category S total loss means the vehicle could be repaired and returned to the road. Whereas a Category

B total loss vehicle cannot be repaired and returned to the road. The chassis and/or bodysell have to be destroyed, although other parts could be salvaged.

What isn't disputed is the vehicle being deemed a total loss. The estimates of the cost of repairing the damage far exceed the vehicle valuation – H's estimate was £7,670 and N's estimate was £9,276 while LV and H valued the vehicle at £2,000 and N at £2,050. I haven't seen any indication the valuation of the vehicle as a total loss being disputed - Mr H rejected the settlement paid by LV because he disagreed with the total loss categorisation, not the valuation of the vehicle.

The disagreement about the appropriate category of total loss extends to the views of the respective engineers, being LV's in-house engineer, the inspecting engineer from H and the engineer (N) engaged by Mr H.

Taking these views in chronological order, the in-house engineer's view is a simple document recording the vehicle details, area of damage, along with estimated repair costs (£6,028) and value of the vehicle (£2,000 based on an industry valuation guide and market values). The document also records the 'Salvage Category' as 'B', without further detail. It doesn't include images of the vehicle, though it appears to have been based on photographs supplied by Mr H.

Picking up The Estate's point about LV's assessor not having an AQP unique identifier, I can see LV provided, in response to a request from The Estate, the in-house engineer's name and confirming he didn't have 'a unique ID'. I'm taking this to be a reference to an AQP number that denotes a qualification to assess the category of total loss. So, it suggests the in-house engineer wasn't an AQP.

The second report is from H, dated October 2022. The report includes an estimated repair cost (£7,670.45) and vehicle valuation (£2,000), concluding the vehicle should be treated as a total loss. Regarding the categorisation of the vehicle as a total loss, the report includes the following statements:

"We refer to your [LV] instruction and confirm that we would agree with the in-house engineer's decision and would support the category B registration."

"Your insured has confirmed that he has already had a settlement offer but remains politely aggrieved over the categorisation. I have explained that we must exercise due diligence and a duty of care in ensuring that repair inappropriate salvage is categorised correctly."

"Salvage Category. The Salvage Category is: Breaker 'B', this has been categorised by an AQP."

As well as confirming the categorisation as Category B, the statement indicates the engineer is an AQP, so appropriately qualified to make a judgment on the vehicle categorisation. The report also indicates the inspecting engineer is a member of IAEA.

Turning to the report from N, as mentioned above it includes an estimated cost of repair and vehicle value, together with a description of the damage. The report comments as follows:

"Following our physical inspection we can advise that in our opinion the vehicle could be classed as a Category S total loss. It is clearly damaged far beyond a financial repair, however the damage that the vehicle has been subjected to could be repaired to a satisfactory standard by a competent repairer."

We would suggest that if this vehicle is repaired then a new MOT should be carried out and a re-inspection of the vehicle is carried out by an engineer before it is re-insured."

The report also goes on to state:

"Under the current salvage categorisation matrix, within the scope of our inspection, we consider that this is Category S (structural damage) and can be sold as repairable salvage. The salvage category has been applied by an appropriately qualified person; the unique number has been provided separately for use only by the instructing party..."

When considering Mr H's complaint, H provided a further statement to LV, as follows:

"Both your in-house engineers and our field engineer deem the salvage as Category B. Following the ABI Code of Practice the question which would decide the difference in categorisation is 'Is the vehicle suitable for repair?'. Taking into consideration the nature of the damage and repair costs (£7,670.45) compared to the valuation (£2,000) both engineers believed the vehicle not suitable for repair and deemed the salvage cat. B."

The statement was made in response to a request from LV to consider the categorisation. The response is part of an exchange which indicates the request included N's report. So, while the statement from H doesn't directly refer to N's report, I've concluded N's report was provided to H, and they had the opportunity to consider it when responding to LV's request.

In addition to the reports, LV's case notes indicate their telling Mr H the category B assessment was based on the damage to inner panels of the vehicle, a safety concern. Looking at the photograph of the vehicle, it shows heavy impact damage to the offside rear passenger door, extending back to the offside rear panel.

While H and N disagree about the categorisation, both are qualified to determine what they consider to be the appropriate category of total loss. And both reached their conclusions based on a physical inspection of the vehicle. The extract from H's report also indicates the engineer discussed their findings and conclusions with Mr H at the time of the inspection and the basis for their conclusion the vehicle was a Category B total loss.

As I've set out earlier, my role is to decide whether LV have acted fairly towards The Estate – it isn't to decide what the appropriate categorisation of the vehicle should be. LV have based their decision on the views, firstly, of their in-house engineer and then, secondly, H's inspection and report. While the in-house engineer may not have been an AQP, LV responded to Mr H's challenge by appointing H (whose engineer was an AQP) to inspect the vehicle and reach a conclusion on the categorisation. The evidence also indicates LV (H) have considered N's report but maintain their view the vehicle should be categorised as a Category B total loss.

While there's disagreement over the categorisation, I don't think LV's actions set out above are unfair or unreasonable. So, I've concluded they've acted fairly towards The Estate in respect of this aspect of the complaint.

While I've come to this conclusion, I've also considered what LV have said in offering to sell the vehicle to The Estate at a salvage value of £299. But as they maintain the categorisation of the vehicle as a Category B total loss, they would require proof the vehicle was being dismantled through a licenced breaker. This is consistent with the categorisation as Category B – the ABI Code of Practice makes it clear the vehicle in such circumstances

cannot be repaired and returned to the road. The chassis and/or bodyshell must be destroyed (even though other parts could be salvaged).

So, while the offer isn't what The Estate would want (or accept), it's consistent with the requirements in the Code of Practice for a Category B total loss.

Taking all these points into account, I've concluded LV have acted fairly and reasonably towards The Estate in the specific circumstances of this case.

My final decision

For the reasons set out above, my final decision is that I don't uphold The Estate of Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr H to accept or reject my decision before 9 May 2024.

Paul King
Ombudsman