

The complaint

Mr B complains about One Insurance Limited (“OIL”) and the handling of the claim he made on his motor insurance policy, following a road traffic accident.

What happened

The claim and complaint circumstances are well known to both parties, so I don’t intend to list them chronologically in detail. But to summarise, Mr B held a motor insurance policy, underwritten by OIL, when he was involved in a road traffic accident. So, he contacted OIL to make a claim.

OIL authorised a separate company, who I’ll refer to as “OCC”, to handle any claims made against a policy they insured. As OCC were acting as an agent of OIL, I will refer to any actions OCC took as though they were taken by OIL themselves where appropriate throughout the decision.

OIL accepted Mr B’s claim and settled it on a fault basis. Mr B’s car was deemed a total loss, so they offered a final pre-accident value payment of £15,150, less the policy excess. But Mr B was unhappy about the above, and the fact he hadn’t been provided with a courtesy car. So, he raised a complaint, making it clear why he thought the third-party driver was at fault, rather than himself.

OIL responded to the complaint and didn’t uphold it. They thought they had acted fairly, and in line with the policy terms, when settling the claim on a fault basis. And they thought the valuation offered to Mr B was a fair one, also explaining why he didn’t qualify for a courtesy car. OIL also directed Mr B to his broker if he wished to change or cancel his cover. Mr B remained unhappy with this response, so he referred his complaint to us.

Our service looked into the complaint and upheld it. Our investigator thought OIL’s decision regarding liability was a fair one, and that Mr B wasn’t entitled to a courtesy car under his policy terms. They also thought OIL had acted fairly regarding any cancellation of the policy, considering it was sold to Mr B by a broker. But they did think Mr B’s car had been valued unfairly, considering our service’s updated approach. So, they recommended OIL increase the valuation to £16,584, less any applicable excess, applying 8% simple interest on the increased amount from their original offer of £15,150. And they thought OIL should pay £150 compensation to recognise the upset receiving an unfair offer initially caused. I note there was some confusion around this total recommendation initially, but I’m satisfied this was made clear by the investigator overall.

Mr B didn’t agree, providing several comments explaining why. This included, and is not limited to, his belief that the £150 compensation wasn’t enough to recognise the distress and inconvenience he’d been caused during the claim. And he raised additional issues regarding hire costs he’d incurred, and his unhappiness with the sale of the policy including the actions of the broker. Our investigator set out exactly what we could, and couldn’t, consider as part of this complaint, alongside their reasoning as to why their recommendation remained

unchanged. Mr B continued to disagree and so, 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.

Before I explain why I've reached my decision, I think it would be useful for me to set out exactly what I've been able to consider, and how. I want to make it clear that it's not my role, nor the role of our service, to re-underwrite the claim as we don't have the expertise to do so. So, I won't be speculating on how I think liability should've been decided. Instead, I've thought about the actions OIL have taken, including how they settled the claim, and decided whether I think they were fair and reasonable. When doing this, I've thought about what action I think another insurer is most likely to have taken, in the same situation.

And within this decision, I've only been able to consider the complaint points Mr B raised with OIL, before he brought his complaint to us. This is because for a complaint to fall within our service's jurisdiction to consider, it must first be raised with a business, and that business given up to eight weeks to respond within their own complaint procedure. Having reviewed the complaints Mr B raised with OIL before he came to us, I'm satisfied I'm able to consider his complaint about liability, the courtesy car, the valuation of his own car and then the actions taken around his policy and whether it would be cancelled. I won't be considering any other issues or events Mr B has raised during our own complaint process, as these would need to be raised to OIL first and then handled separately under another complaint reference.

In relation to the policy cancellation, I note the policy itself was sold by a broker. So, it would be the broker that would handle the administration of any policy, including cancellation. OIL have confirmed they didn't instruct the broker to cancel the policy upon confirmation Mr B's car was a total loss, as Mr B still had the opportunity to purchase a replacement car and add it to the policy. This is standard industry approach and so, I don't think I can say OIL acted unfairly when taking this stance. I've also seen that in a letter dated 18 September 2023 from OIL to Mr B, OIL confirmed Mr B should contact the broker to change the car or cancel the cover. I think this represents OIL acting fairly and any issue Mr B then had with the broker would need to be raised with, and considered against, the broker directly. So, I don't think OIL need to do anything more regarding this aspect of the complaint.

I've then thought about Mr B's concerns regarding no courtesy car being provided to him. I've read through the policy terms and conditions and I can see under the courtesy car heading that OIL *"will not guarantee or provide a replacement car if it is decided that your car cannot be repaired at a reasonable price"*. In this situation, Mr B's car was deemed a total loss and so, could not be repaired.

So, I'm satisfied OIL acted fairly, and within the terms and conditions of the policy, when not providing a courtesy car. And while I recognise Mr B's comments about being provided with a courtesy car while his car was being inspected, before it was deemed a total loss, during this time it had also not been decided it could be repaired at a reasonable price, as the condition sets out above. And it is standard industry approach for a courtesy car to be provided only when repairs have been authorised, dependent on the level of cover a policy

provides. While I note Mr B feels he was a “platinum” member, this additional coverage doesn’t qualify Mr B for a courtesy car based on the policy terms. And I must also be clear a courtesy car being provided due to repairs needed following a road traffic accident is entirely separate to a breakdown, and any breakdown cover Mr B may have held additionally. So, I don’t think OIL need to do anything more for this aspect of the complaint.

I’ve then turned to what I believe are the two main areas of dispute within the complaint, which are the liability decision on the claim and the valuation of Mr B’s car.

Again, I want to reiterate it is not my role to re-underwrite the claim. Instead, it’s my role to consider OIL’s actions against the policy terms and conditions, and what I feel is fair and reasonable. In this situation, OIL have settled the claim on a fault basis, something which Mr B disputes strongly, explaining why he thinks OIL should’ve allowed him an opportunity to provide more detailed testimony.

But the terms and conditions of the policy explain within the general conditions that OIL can *“have complete control to conduct, defend and settle any claim”*. And this is a term that is usually found within most insurance policies. So, OIL weren’t obligated to gain Mr B’s agreement on how they intended to settle the claim and so, I don’t think I can say they failed to act within the policy terms when doing so.

And having considered the accident circumstances, alongside Mr B’s and the third-party testimony and the fact no independent witness statements or dashcam footage was available, I don’t think I can say OIL acted unfairly when settling the claim on a fault basis as I think any other insurer would’ve most likely taken the same decision. This is because there was no evidence to substantiate the speed of the third-party driver. And the third-party was the vehicle established on the roundabout, with Mr B being the party entering the roundabout. And it is standard industry approach for the fault to lie with the party moving onto a road, rather than one already established on it, where this isn’t contradictory evidence or circumstances to change that stance. So, while I don’t in any way intend to discredit Mr B’s opinion on the situation, and why he thinks the claim should be settled differently, I don’t think I can say OIL have done something wrong when settling the claim as they have. So, I don’t think they need to do anything more for this aspect of the complaint.

Finally, I’ve turned to the valuation of Mr B’s car. And I note our investigator recommended the valuation originally offered to Mr B to be increased, in line with our services approach which is that the top valuation found from the motor trade guides we use be paid, unless there is evidence to support why a lower valuation is appropriate. This approach has been communicated to insurers clearly for some time and so, this is the approach I’ve also taken.

In this situation, I can see the highest valuation obtained from the motor trade guides was £16,584. And this is higher than the £15,150 OIL offered to pay during the claim process. I’ve seen no evidence to support why a lower amount should be paid and so, based on the above, I don’t think OIL valued Mr B’s car fairly and reasonably. So, considering this, I’ve then turned to what I think OIL should do to put things right.

Putting things right

When thinking about what OIL should do to put things right, any award or direction I make is intended to place Mr B back in the position he would’ve been in, had OIL acted fairly in the first place.

Had OIL acted fairly, I think OIL would’ve offered Mr B a total loss settlement of about

£16,584, less his applicable excess, rather than the £15,150 they did. So, I think this is the settlement amount they should pay Mr B. And to recognise the fact Mr B was without this offer available for him to consider and have the opportunity to accept for a period of time, I think OIL should pay Mr B 8% simple interest on the difference between the two figures, from the date they initially offered the £15,150 to date of payment.

I note Mr B has suggested 8% simple interest should be paid on the total amount, from the time of offer to the date of payment, as he didn't receive an interim payment of the £15,150 until after our service received his complaint. But I don't think this would be fair for me to direct, as I can see in a letter to Mr B on 29 September 2023, OIL reiterated their offer and asked for Mr B to provide them with his account details if he wanted to accept the payment. I can't see any evidence to show Mr B provided OIL with these details and so, I don't think it would be fair for me to hold OIL solely responsible for the delay in payment. I also don't think I can be satisfied beyond reasonable doubt that Mr B would've accepted the correct settlement offer of £16,584 at the time it was put to him, as once his excess was deducted this would've taken the payment below what he stated in an email he expected to receive, based on adverts he'd found.

I note our investigator also recommended OIL pay Mr B an additional £150 to recognise the inconvenience he's been caused by not receiving a fair valuation initially. And I think this offer is a fair one, that falls within our service's approach and what I would've recommended, had it not already been made. I think it fairly reflects the time and inconvenience Mr B has spent needing to engage with OIL to try and increase the settlement offer to a fair and reasonable level, and the frustration this no doubt would've caused.

But I also think it reflects the fact that Mr B wasn't entitled to a courtesy car, nor can I see he provided his bank details to allow OIL to make an interim payment to him, while he disputed the valuation and escalated his complaint. So, I do think this mitigates some of the impact Mr B has referred to, that has arisen from the complaint issues I've been able to consider as part of this complaint. So, the £150 is a payment I'm directing OIL to make.

My final decision

For the reasons outlined above, I uphold Mr B's complaint about One Insurance Limited and I direct them to take the following action:

- Pay Mr B the remaining amount required to ensure he receives a total settlement payment of £16,584 less his applicable excess for his car that was deemed a total loss; and
- Pay 8% simple interest on this remaining amount, from the date the original offer of £15,150 was put to him, until date of payment; and
- Pay Mr B £150 to recognise the distress and inconvenience he's suffered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 April 2024.

Josh Haskey
Ombudsman