

The complaint

Mrs C complains about the delays she said Liverpool Victoria Insurance Company Limited (LV) caused after she made a claim on her motor insurance policy. And she's unhappy with the settlement it offered for the loss of her car.

What happened

Mrs C said her parked car was hit by another driver. She first had her claim dealt with by an accident management company. When the other insurer disputed liability, Mrs C raised a claim with LV. But she was unhappy with the delay in the claim and with its settlement offer. LV had offered her £29,800 for the loss of her car. But Mrs C thought her car was worth £33,000.

Our Investigator recommended that the complaint should be upheld in part. She thought LV wasn't responsible for the actions of the accident management company. And she thought LV had dealt with and progressed Mrs C's claim reasonably after she brought it to LV. But she thought LV's settlement offer was unfair. She thought it should increase this, make a payment of VAT to Mrs C's lease company, and pay Mrs C the amount left of her unused deposit, with interest.

Mrs C replied that she agreed with this. She added that she had to make lease payments for a year until the claim was settled. LV replied that its settlement offer was within the range of the highest valuation provided by the motor trade guides we use. It said it couldn't provide examples of prices of similar cars at the time as it didn't receive the claim until eight months after the incident.

LV said it was required to pay the settlement to the lease company, which was VAT registered, so it had deducted VAT. And it thought it was for Mrs C to recover her unused deposit from the lease company. LV asked for an Ombudsman's review, so the complaint has come to me for a final 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.

It's now two years since the accident and I can understand that Mrs C feels frustrated that the matter has yet to be resolved. Mr C has represented her in this matter, and he has set out a timeline of the events following the accident. As our Investigator has explained, I can only consider here the events since LV took over the claim. And Mrs C will have to raise her concerns about the accident management company and the courtesy car provider directly with them as they are separate companies to LV and LV wasn't responsible for their actions.

LV has a responsibility to deal with claims promptly and fairly. So I've looked at the claim journey since the claim was handed to it. And, like the Investigator, I'm satisfied that it dealt with the claim and offered a settlement without any avoidable delays. Mrs C has accepted this, so I won't consider this further here.

Mr C was unhappy with the settlement offer made by LV. It had offered £29,800, waiving the policy excess, in settlement of the claim. But Mr C was unhappy with this. He thought it would cost about £30,693, as shown by an advert, to replace his car.

I can understand that Mrs C wants a fair settlement for the loss of their car. Mrs C's policy provides for the car's market value in the case of its total loss. I can see that this is defined in the policy booklet as:

"The cost of replacing your vehicle with a vehicle of the same make, model, specification, age, mileage and condition as your vehicle was immediately before the loss or damage you are claiming for. When we are unable to estimate the market value of your car, we will use the nearest market equivalent for comparison".

The Investigator has explained this service's approach to car valuations. We don't provide valuations for cars but look to see whether the insurer's offer is reasonable. In most cases, we assess the market value as the price which the consumer would have had to pay for a comparable vehicle across the various markets, immediately before the time of the damage or loss.

This could be slightly less than advertised retail prices, although this will depend on the most likely market for the particular age and model of vehicle. Because of recent changes in the market, we are increasingly hearing of cars selling either for or close to their advertised price.

Assessing the value of a used vehicle isn't an exact science. We generally find the valuations given in motor-trade guides most persuasive. These guides are based on extensive nationwide research of likely selling prices. We also take all other available evidence into account, for example, engineer's reports, advertised prices and independent valuations.

Our Investigator thought LV's settlement offer wasn't fair and reasonable. So I've checked how she came to this conclusion. I can see that she looked in the motor trade guides we use for cars of the same make, model, age, mileage and condition as Mrs C's car at the date of its loss.

Given the current challenges in the used car market the motor valuation guides have a wider range of values than we have seen previously. And we think going by the highest will ensure consumers have received a fair offer, allowing them to replace their car with one of the same make, model and specification. So we now expect insurers to pay the highest of the trade guides, unless they are able to provide us with evidence which supports a lower valuation.

LV had provided a valuation of £29,800, which was the average of the valuations provided by the two guides it checked. The highest of the valuations found by the Investigator was £30,203.

The difference between these amounts isn't significant, but I would still expect LV to provide evidence to justify paying less than the highest valuation. But it hasn't done this. And I can see that Mr C had provided an advert from the time showing a similar car advertised for £30,693. So I think this confirms that LV's offer was too low, it wasn't made in keeping with our approach and the policy's terms and conditions and I'm satisfied it should increase this.

Mrs C's car was owned by a lease company. Mrs C was unhappy because LV took the VAT off the settlement figure, leaving her to pay the shortfall. LV paid the lease company £23,642.50, and left Mrs C with a shortfall of £4,682.50 as the lease company valued the car at £28,325.

LV said it needed to deduct the VAT as the car is on a Personal Contract Hire (PCH) and the lease company can claim back the VAT from HMRC. However, our approach is that market value includes VAT. And as Mrs C's policy is a personal one, the VAT should be included

within the settlement figure. We think it's unfair for businesses to deduct the VAT and leave the shortfall with the customer.

So I'm satisfied that LV should pay the lease company the outstanding VAT on the car, which is £4,682.50.

Mrs C paid a deposit of £2,500 to the lease company when she took out her 48 month lease. The policy is meant to indemnify the Mrs C for her loss. As Mrs C has no equity in the lease vehicle, the only loss she suffered is the unused part of her deposit.

Mrs C had used 17 months of her lease term with 31 months unused. So Mrs C's remaining unused deposit is valued at £1,614.79. The total of the amount of unused deposit plus the payment to the lease company are less than the car's market value at its date of loss, so I'm satisfied this hasn't left Mrs C in a better position.

And so I'm satisfied LV should pay Mrs C this amount. And, as Mrs C has been without her money for some time, I think LV should reasonably add interest to this amount from the date when the final vehicle valuation was offered until the date of settlement.

Putting things right

I require Liverpool Victoria Insurance Company Limited to do the following:

1. Increase its settlement offer for the car's market value to £30,203 and pay the lease company £4,682.50 further.
2. Pay Mrs C £1,614.79 for the unused proportion of her deposit, adding interest to this amount at the rate of 8% simple per annum from the date the final valuation was offered until the date of settlement†.

†If LV considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs C how much it's taken off. It should also give Mrs C a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons given above, my final decision is that I uphold this complaint in part. I require Liverpool Victoria Insurance Company Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 7 October 2024.

Phillip Berechree
Ombudsman