

The complaint

Mr D complains Aviva Limited (Aviva) unfairly handled and settled a claim on his motor insurance policy, after his car was damaged in an accident.

What happened

On 22 July 2023, Mr D notified Aviva of a car accident. He also explained in communications with Aviva that he wanted his car to be repaired rather than written off.

On 31 July, Aviva told Mr D it wouldn't repair his car based on the damage sustained to it. Instead, it'd settle the claim by paying Mr D the car's market value, less his policy excess of £450. It initially valued the car's market value at £2,935. Mr D was unhappy about the decision to write off his car as well as the valuation and raised a complaint.

Aviva and Mr D communicated about these points and Aviva offered to increase the valuation to £4,240 on 23 August. It also acknowledged Mr D had been given incorrect information, part of which caused him not to have a courtesy car, something he was entitled to under his policy. To put this right, it offered £320 for these service failings. Mr D refused to accept the revised valuation nor any payments on a without prejudice basis, which Aviva had offered to make pending an agreement on the valuation. The car was returned to him, and the claim wasn't progressed further while Mr D decided how he wanted to proceed.

Mr D referred his complaint to this Service for an independent review. His complaint had two key aspects to it as set out below.

1. Claim - the decision to write off his car rather than repair it was incorrect because the cost of repairs is too high and market value is too low.
2. Service - the poor claims process he'd experienced.

Having reviewed the evidence, the Investigators view was as follows:

1. Claim - Aviva was able to choose how to settle the claim and Mr D wasn't entitled to require it to repair his car in this situation. And considering the available evidence, a fair settlement would be £5,996.67 so Aviva needed to pay this amount to Mr D plus interest.
2. Service – Aviva's service had fallen below the standard Mr D was entitled to expect. This caused him both inconvenience and distress. But the compensation of £320 offered was a fair and reasonable way for it to recognize the impact it had.

Following communications with both parties, Mr D said he wouldn't contest the valuation but wanted to clarify the position about interest.

Aviva agreed to the recommended valuation and offered to make this payment to Mr D on 13 March 2024. In relation to interest, Aviva explained the compensatory offer of £320 had included £20 (rounded up) towards interest on the offer of £4,240 though it agreed the offer it

made didn't clarify this to Mr D. It also agreed to pay further interest on the difference between the recommended valuation and its offer of £4,240 for the period 23 August 2023 to 13 March 2024, rounded up to £80. Mr D was unhappy with the offer made for interest – he said it wasn't until 8 March 2024 he was made aware by this service that Aviva wouldn't consider the repair option. Therefore, it wasn't appropriate for him to accept any of the offers to make payment by Aviva and he should be awarded interest on the full value of his car.

The matter was passed to me to decide and I issued a provisional decision on 16 September. Below is an extract of the provisional findings made.

'Although a number of matters and points have been raised, this decision focuses on what I consider are the issues still being disputed. However, I've given careful consideration to all of the submissions made before arriving at my decision. Having done so, I'm satisfied the investigator reached a fair outcome here. So, I intend to partially uphold Mr D's complaint in this matter. I'll explain why.

The valuation isn't being contested by Mr D nor Aviva in this matter, so I'll firstly consider the point about Mr D wanting a repair rather than having his car written off.

As the investigator explained, under the terms of the policy, Aviva can choose how to settle the claim, including paying Mr D for the market value of his car. Whilst I appreciate Mr D wanted it to be repaired, this isn't something he was able to require Aviva to do.

In relation to the payment of interest, I'm satisfied it's fair for an insurer to settle a claim within approximately a month of the first notification of loss. In this matter, Aviva made an offer to settle the claim using a valuation of £4,240 on 23 August and make this payment to Mr D, on a without prejudice basis, so he could continue with his complaint in the meantime. Mr D didn't accept this. I note he says he wasn't made aware Aviva wouldn't repair his car until told by this service in March 2024. I don't see things the same. Considering the contact notes and communications between Mr D and Aviva in August, I'm satisfied it was made clear to Mr D this was the position by 23 August, at the latest. Mr D was therefore required to mitigate his loss and accepting the payment on a without prejudice basis would've done this.

I find, therefore, Aviva should pay interest on £1,756.67 (being the difference between the market value determined by this service of £5,996.67 and Aviva's offer of £4240 on 23 August 2023) from 23 August 2023 to 13 March 2024. Aviva calculated this sum and offered to round it up to £80. Rounding up the interest payment isn't something we'd ordinarily require a business to do but I consider the offer to be fair and reasonable.

I recognise Aviva says it offered Mr D £320 which included further interest of just under £20. And, although I don't require Aviva to pay any interest in addition to the amount mentioned above, I don't intend to reduce or otherwise interfere with the offer Aviva already made of £320. I say this because the offer of £320 didn't make it clear any element of interest was included.

Having thought about the service provided by Aviva, I'm satisfied it fell below the standard Mr D was entitled to expect in this situation. Aviva gave Mr D incorrect information, poor service and failed to provide a courtesy car when this was sought by Mr D and provided under the policy in this scenario. To apologise for this, Aviva offered £320 in compensation. I've also considered the steps Mr D described taking to minimise the impact of this on his situation and that no evidence has been provided of any additional costs incurred because of this service failing. Taking all the

circumstances of the complaint into account, I consider the compensatory offer Aviva originally made of £320 is a fair and reasonable way to put right the impact of its service in this matter.

Aviva has explained payment to Mr D has been made of the market value of Mr D's car (less the excess) and the original compensation offered of £320. Therefore, to put things right, Aviva would only need to pay to Mr D the interest as set out above.

Putting things right

To settle the complaint in this matter, I'm intending to require Aviva Insurance Limited to pay 8% simple interest on £1,756.67 from 23 August 2023 to 13 March 2024, rounded up to £80 as it has already offered to do.*

**If Aviva Insurance Limited considers it's required by HM Revenue & Customs to take off income tax from that interest it should tell Mr D how much it's taken off. It should also give Mr D a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs, if appropriate.'*

Aviva responded to confirm it had no further comments to make. Mr D responded to say he believed there was a real possibility his car might be repaired. Therefore, accepting a financial settlement wasn't appropriate and interest should be paid from 23 August 2023. He explains he held this belief because Aviva returned his car to him at the end of August and it could have simply auctioned it.

The matter has now been returned 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.

I've also taken into account the further comments provided by Mr D. Having done so, I've come to the same outcome and for the same reasons as I'd previously set out in the provisional decision.

As outlined in the provisional decision, I acknowledge Mr D says he was first made aware Aviva wouldn't repair his car when he was told this by our service in March 2024. I don't see things the same and the further comments made haven't changed my finding on this point. This is because I've considered the contact notes and communications between Mr D and Aviva in July and August 2023. Having done so, I'm satisfied it was made clear Aviva wouldn't repair Mr D's car at various points in the claims handling process, including the final response of 23 August 2023.

I don't agree returning the car to Mr D suggests there was a real possibility Aviva would repair it. Nor do I consider Aviva placing it into an auction would've been a reasonable step for it to take when Mr D wasn't willing to accept the offer which had been made. At this point, the car was still his property and Aviva explained it would arrange for the car to be collected if Mr D wanted it to deal with his claim further.

In light of the above, I don't consider it'd be fair nor reasonable to require Aviva to pay interest beyond 23 August 2023.

I recognise Mr D will be disappointed with this outcome. But my decision ends what we – in trying to resolve his dispute with Aviva – can do for him.

Putting things right

To settle the complaint in this matter, Aviva Insurance Limited needs to pay 8% simple interest* on £1,756.67 from 23 August 2023 to 13 March 2024, rounded up to £80 as it has already offered to do.

*If Aviva Insurance Limited considers it's required by HM Revenue & Customs to take off income tax from that interest it should tell Mr D how much it's taken off. It should also give Mr D a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs, if appropriate.

My final decision

My final decision is I uphold this complaint. Aviva Insurance Limited now needs to take the action set out above to put things right. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 30 October 2024.

Rebecca Ellis
Ombudsman