

The complaint

A limited company, which I will refer to as S, complains about the handling of its commercial motor insurance claim by Zurich Insurance Company Ltd.

What happened

The following is intended only as a summary of events. Additionally, whilst other individuals and companies have been involved in the claim and complaints process, I have largely just referred to S and Zurich. Actions taken by an agent of Zurich will ultimately be Zurich's responsibility.

S operates as a business in what I will refer to, for the purposes of anonymity, as the construction industry. S held a Motor Fleet policy, underwritten by Zurich, which provided cover for a number of vehicles owned by S. On 10 January 2024, one of these vehicles was damaged, and S contacted Zurich to claim and have the vehicle repaired. At this point the vehicle was still drivable.

Zurich accepted the claim. It took just over a week to have the vehicle assessed and the repairs approved though. About two weeks after the claim event Zurich explained to S that it could have the vehicle repaired, but that its approved repairer did not have a courtesy car available at that time. And that S could choose to either proceed without the courtesy car, or wait until March when a courtesy car would be available.

S requested that Zurich provide other options or an alternative repairer. S also expressed its dissatisfaction in relation to a number of other points, including that the terms of the policy around the provision of courtesy cars being "subject to availability" were unclear and ambiguous. S then said that it had internal access to a vehicle that could be leased to it, and asked Zurich for guidelines on what it would expect the cost of this to be. S sent Zurich a number of emails over this period.

On 8 February 2024, S contacted Zurich again and said that the wingmirror on the vehicle had come off. And that this meant the vehicle was now undrivable. S asked for an immediate resolution to the situation. Zurich said that it could seek to get the vehicle to the garage sooner, but that there might still not be a courtesy vehicle available. S asked for a timeline for when the repairs would begin and when a courtesy vehicle would be available. However, no response was provided to this for around three weeks. At this point the vehicle was booked in for repair, though this was not to happen for almost another two weeks.

Ultimately, S's vehicle was taken in for repair around two months after the claim event, with a courtesy vehicle provided at that point.

Zurich then responded to S's complaint, saying that a courtesy car is only provided when using an approved repairer and subject to availability of the approved repairer. Zurich also said S's own vehicle had been drivable throughout the period prior to the repairs commencing and that repairs had taken place at the earliest opportunity. Lastly, Zurich said that there was no cover in the policy for hired loan vehicle costs.

S remained unsatisfied and brought its complaint to the Financial Ombudsman Service.

S has also raised concerns about the quality of the repairs completed. And Zurich has responded to this complaint. However, this matter does not form part of the current complaint being considered by the Ombudsman Service. The current complaint is limited to the issues that arose prior to the repairs commencing.

In terms of the current complaint, our Investigator thought the terms of the policy would be reasonably understood to mean that the repairer will be providing a replacement car, while they complete repairs, if there is one available. But he did think Zurich ought to have progressed matters better and that this had caused S to have a loss of use of its vehicle for a period of time when this could have been avoided.

Our Investigator recommended that Zurich pay S £10 per day for a period of 28 days when S was without a driveable vehicle, adding interest to this amount. And £100 compensation for the general inconvenience caused. Later, our Investigator also said that Zurich should cover the £327 in taxi costs S had apparently incurred between 8 February and 7 March 2024 – provided that S could provide Zurich with receipts for these.

Zurich accepted the Investigator's recommendations but S did not. S has provided detailed responses as to why it disagrees. Fundamentally, S considers that Zurich has caused it to suffer consequential losses of over £25,000 and that Zurich should pay further compensation of several thousand pounds. S has made a number of legal arguments around how the policy should be interpreted and why this level of redress is payable.

As our Investigator was unable to resolve the complaint, it 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 have come to largely the same outcome as our Investigator. I'll explain why.

As I have said, the above is only intended as a summary and S has made detailed submissions. However, I am not going to address each of these individually. This is not intended as a discourtesy, but rather reflects the informal nature of the Ombudsman Service. Instead, I will focus on what I consider to be the key issues.

The first issue concerns the provision of the courtesy car. I will address the connected issue of when the repairs ought to have commenced below. For the moment, I will just address this point on the basis that the repairer did not have a courtesy car for S to use. S has said that the wording of the policy is ambiguous and should be interpreted in its favour.

It is necessary to consider the interpretation of a term within the policy in the context of the policy as a whole. However, both parties are aware of this wording, so I have not repeated it in full here.

The relevant part of the wording says:

“If you have Comprehensive PRIVATE CAR cover:

- We will arrange for the repair of your vehicle with an approved repairer and:
- Collect and re-deliver your vehicle to and from your home or place of work.
- Supply a courtesy car whilst your vehicle is being repaired (subject to availability

- and if your vehicle is not beyond economical repair).
- Valet your vehicle upon completion of the repairs.
- Guarantee all repairs for three years.

If you have Comprehensive COMMERCIAL VEHICLE cover:

- We will arrange for the repair of your vehicle with an approved repairer and:
- Collect and re-deliver your vehicle to and from your home or place of work.
- Guarantee all repairs for three years.

Important - the above features are only available in the UK through our approved repairer network.”

As well as the context provided by the rest of the policy, the interpretation of this term should be made based on what a reasonable person, with all of the relevant background knowledge, would understand it to mean at the time the policy was entered.

The vehicle in question was a “private car”, so the third bullet point above was relevant to the claim. The first part of this says that a courtesy vehicle will be provided whilst the damaged vehicle is being repaired. In this case, a courtesy vehicle was provided whilst the damaged vehicle was being repaired. So, Zurich has effectively done what was required under this term.

The issue is that a courtesy vehicle would not have been provided had the repairs been carried out at the earliest opportunity. So, the question becomes whether or not Zurich ought to ensure that a courtesy car is provided for the earliest possible repair.

S has suggested a number of arguments about how the phrasing around “availability” ought to be interpreted. I do agree that this term could be more explicit that the availability relates to that of the approved repairer. However, I also note the last sentence of the quote above. This says that the features are only available through the approved repairer. In this case, the feature would be the provision of a courtesy car.

And tying this together, I consider that a reasonable person interpreting this policy would understand this to mean that the courtesy car would be provided by the approved repairer, if the approved repairer had one available.

S has commented on a reasonable expectation that Zurich provide it with continuous access to a vehicle throughout the period of the claim. However, at the outset of the claim, its vehicle was driveable, and S had access to this vehicle. S may have had some concerns over the appearance of its vehicle up until 8 February 2024, and whether this had an impact on its business dealings. But I don’t think this changes whether or not Zurich ought to have provided a courtesy car – or paid for some other vehicle – during this period.

I do think Zurich ought to have done more to identify a repairer that could carry out the works, and provide a courtesy car for the period of these works, at an earlier date.

S’s vehicle was initially driveable though, so the urgency for this was reasonably limited. I appreciate S, like all customers, would want the repairs carried out quickly. And I note the comments made about the impact having a vehicle with a damaged appearance may have had on its business activity prior to 8 February 2024. However, I am not persuaded that this had the level of detriment S has suggested. And, given S had a number of vehicles insured and presumably in use, it could have mitigated this issue.

This may have changed to a degree from 8 February 2024, after the wingmirror came off. From this point S no longer had access to this vehicle and, if all of its vehicles were being

used at any given time, would have had limited options. Zurich was made aware of this issue. Yet it has provided no evidence that it made any significant attempt to expedite matters, identify an alternative repairer, or take any other action. Zurich also failed to appropriately communicate with S over this period. Emails went unanswered and S was not meaningfully updated.

It does not appear that this is greatly disputed. So, what remains is to consider the impact of not having the use of this vehicle from 8 February 2024.

I do note the policy itself does not cover the loss of use of the vehicle following an insured event. However, what is being considered here is the impact of Zurich's service failures rather than the impact of the insured event itself.

As above, S did have the use of other vehicles. But it would not have been possible to have used these for all activities. S has a certain number of vehicles because this is what its operations require. And having one less will undoubtedly have caused some issues. S was able to mitigate these to an extent by using taxis. This mitigation came at a direct cost, and it is fair and reasonable that Zurich meets the direct cost of this.

S has referred to the possibility of leasing a vehicle it had internal access to. It isn't clear what the circumstances were around this vehicle or why it would have been necessary to lease/hire it if S already had access to it. However, the issue with asking Zurich to now meet this cost, is that this was not a cost that was actually incurred in the event. It is not fair or reasonable to expect Zurich to cover the cost of something S did not actually pay for.

S has referred to cover for business interruption. This isn't something that its policy provides for. However, as above, the issue I am considering is what the impact of Zurich's failure was rather than policy coverage itself. So, I have thought about the interruption/interference with S's business.

S has referred to a number of missed appointments/meetings, and impacts on its efficiencies as a business. It has also said that these have led to reputational damage and long-term impacts. Along with the administrative burden of dealing with the matter, S has estimated this cost its business over £25,000. However, other than its testimony, it has not provided any evidence to support these losses.

I don't doubt that there was some impact from not having the use of its vehicle for a month. And from having a damaged, but driveable, vehicle for the previous month. But I am not persuaded that the impact was as severe as has been suggested.

If S was experiencing such a severe level of detriment, I would also have expected it to take further action to mitigate this regardless of any failure by its insurer. By its own admission, S seems to have had access to a vehicle it could have paid to have the use of. Had it done this, given the circumstances of this case, I would likely conclude Zurich ought to meet the cost of that. However, S did not take this action. So, I cannot fairly or reasonably ask Zurich to meet this cost.

It is also necessary to separate out the impact from the claim event from any impact of Zurich's failures. There would always have been some impact on S as a result of its vehicle being damaged and it is not fair or reasonable to expect Zurich to meet this cost. Zurich can only be asked to cover the impact that ought to have been avoided had it progressed the claim appropriately.

Having said all of this, I do think the compensation recommended by our Investigator was not sufficient to address the level of inconvenience caused to S.

I consider that the general award for loss of use at £10 per day for 28 days is appropriate, and I also consider Zurich ought to meet the cost of taxis S had to use between 8 February and 7 March 2024 (which would need to be evidenced by S).

However, given the initial delays in arranging the first attempt to have the vehicle repaired in January 2024, the failure to find an alternative repairer either then or in February 2024, and the communication issues experienced throughout February 2024, I consider Zurich ought to pay S £300 compensation.

I appreciate this is not the level of compensation S might hope for and that this will not fundamentally change matters. But I consider this to be in line with the level of compensation appropriate to these issues and the evidenced impact on S.

I am unable to take into account the impact on S's director(s) personally though. Whilst the director(s) may enjoy some benefit under the policy, the policyholder and the complainant in this case is S itself. And, as a limited company, S is unable to experience distress. I note S's comments that the impact on its directors directly, then had a knock-on impact on how they were able to perform their role, etc. However, I have taken this into account when considering the level of compensation above for the impact on S as a whole.

I am also unable to punish Zurich for any issues it has caused. The Ombudsman Service is not the regulator of the industry. My role is to address the individual issues of the complaint. And I consider the level of compensation set out above, and summarised below, to be appropriate in the circumstances of this particular complaint.

Putting things right

Zurich Insurance Company Ltd should pay S:

- Its taxi costs in the sum of £327, once receipts are provided – so long as these were incurred during the relevant period (8 February 2024 – 7 March 2024);
- £10 per day loss of use for the period between 8 February 2024 and 7 March 2024, a total of £280 for the 28 days;
- 8% simple interest on this combined sum from 7 March 2024 until the date of settlement; and
- Pay £300 compensation for inconvenience caused.

My final decision

My final decision is that I uphold this complaint Zurich Insurance Company Ltd should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 26 November 2024.

Sam Thomas
Ombudsman