

The complaint

Mrs R and Mr R are unhappy with the decision made by Liverpool Victoria Insurance Company Limited (trading as LV) following a claim made under Mr R's car insurance policy.

Mrs R and Mr R have both made representations on this complaint. As Mr R is the main policyholder, for ease of reference, I have referred to Mr R throughout this decision.

What happened

In August 2023 LV received notification of an incident from Mrs R (the named driver on Mr R's policy). Mrs R advised that a bus was driving at speed, and overtook her round a corner 'and lost control and clipped' her car. The third party's vehicle (TPV) was fitted with cameras. As part of its investigation, LV obtained CCTV footage from the TP. It was sent 17 recordings, but advised that only the footage from camera one was relevant for assessing the claim.

LV advised Mr R *'Watching the footage itself, I do not think that the bus intended to change lanes but did encroach into your lane during its turn. However, as busses are longer vehicles, there is normally an allowance for such events as they would otherwise not be able to conduct such manoeuvres. Looking at your vehicle's positioning, it is my opinion that you took your turn too wide, which resulted, when coupled with the overlap of the bus's path of travel, in you colliding with the bus.'*

LV told Mr R that it would be recording the claim as a fault claim. Mr R was unhappy with this response, and brought his complaint to the Financial Ombudsman Service.

The investigator found that LV had acted reasonably in reaching its decision to settle the TP's claim, and didn't ask LV to do anything in settlement of the complaint. Mr R asked for his complaint to be referred to an ombudsman. Mr R highlighted the lack of proper investigation undertaken by LV when reaching its decision, including its failure to share the 17 camera recordings sent by the TP, request a copy of the engineer's report to determine the damage caused to the TPV, and comment on the scratch marks on his car (which Mr R says are inconsistent with the impact described by LV when holding him at fault). As the complaint couldn't be resolved, it has been passed to me for decision.

I issued a provisional decision on Mr R's complaint. This is what I said about what I'd 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 like to reassure the parties that although I've only summarised the background to this complaint, so not everything that has happened or been argued is set out above, I've read and considered everything that's been provided.

Mr R feels strongly that LV has not dealt with his claim properly. I understand it has been a challenging time for Mr R. But having reviewed the evidence I don't think LV needs to do anything in settlement of this complaint. I can understand this is likely to come as a

disappointment to Mr R but I hope my findings go some way in explaining why I've reached this decision.

When we investigate a complaint about an insurer's decision on a claim, our role is to consider whether the insurer handled the claim in a fair and reasonable manner. So I've considered the evidence to determine whether LV has acted fairly and reasonably in reaching its decision on Mr R's claim.

When evidence is contradictory or inconclusive (or both) I have to make a finding on the balance of probabilities. That is what I find is most likely to have happened in view of the available evidence and wider circumstances.

I appreciate Mr R feels strongly about the damage caused to his car, and how it happened. Mr R says 'I've got tyre marks on my car. The tyre marks come from the front tyre of the bus.' I've considered the images sent by Mr R in support of his complaint. But it's not the role of this service to comment on whether damage is consistent with an incident or not. I requested and viewed the CCTV footage considered by LV as part of its investigation of Mr R's complaint. This includes footage from all 17 cameras fitted in the TPV. I'm satisfied only camera 1 contains evidence material to the outcome of Mr R's claim.

The footage in camera one includes a recording of what happened before the impact LV has relied on in reaching a decision on Mr R's claim. Mr R has yet to see this footage as it wasn't sent to him during the investigation process. In the footage, I have seen the TPV driving in the same lane as Mr R's car. As the TPV gets closer to Mr R's car, the TPV proceeds to continue on the lane to the left of Mr R. Mr R's car is visible on the right-hand lane. I have seen no impact between Mr R and the TPV in this footage.

Mr R has seen footage from the video recorded from 8.21.40. The video at 8.21.42 shows the TPV and Mr R's car parallel to each other - each in its own lane. Again, there is no evidence of any impact between Mr R and the TPV at this time.

Both vehicles are seen continuing in their respective lanes. The road comes to a bend and the footage shows both vehicles completing this manoeuvre. It is at the time of completing this turn that there is likely impact between the TPV and Mr R's car. Mr R says there was impact between the TPV and his car before both vehicles turned into the road. But I can't see any evidence of the TPV causing any impact to Mr R's car in the way he has described. The circumstances of this footage are also consistent with what Mrs R described at the time of reporting her claim to LV. That is, saying that the incident happened when the TPV overtook her round a corner.

It is reasonable to say that at the time of turning on the bend of the road, Mr R's car is some way from the pavement, and close to the TPV. I accept Mr R strongly disputes any impact between his car and the TPV at the time. And I accept that the extent of the impact remains a matter of dispute. But on balance, I think LV's decision to settle the TP's claim based on the evidence showing how both vehicles proceeded round the bend was reasonable.

Based on footage from camera one, I'm persuaded there was reasonable evidence for LV to consider that the claim didn't have reasonable prospects of success, given the proximity of Mr R's car to the TPV whilst making a turn, and the lack of conclusive evidence supporting Mr R's comments about when the TPV caused damage to his car.

LV is entitled to consider the likely outcome of defending the claim and going to court. It clearly thought that, if the claim proceeded to court, Mr R was likely to be held liable and that it wouldn't be able to defend the claim the third party had made. And it's fair that it wished to

avoid the risks and costs associated with that. It's not in LV's interests to accept liability for claims it thinks it can win. And based on the evidence, I'm persuaded its decision was fair and reasonable.

I appreciate Mr R's disappointment with this outcome. This situation has clearly left Mr R feeling stressed, upset, and financially out of pocket. But I can't ask LV to do anything differently, given the evidence that's been provided. I haven't seen any evidence to persuade me that LV's actions have been wrong, unfair, or outside of the policy terms. So I am minded not to ask LV to do anything in response to this complaint.

Provisional decision

For the reasons provided I'm minded not to uphold this complaint.

The responses to my provisional decision

I invited both Mr R and LV to respond to my provisional decision. Mr R rejected the provisional decision. LV had nothing further to add.

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.

Mr R says the damage on his car supports what he has explained about the third party vehicle (TPV) colliding with his car. I've considered the images sent by Mr R. And I don't dispute that there is damage evident on Mr R's car. But I'm mindful that the question I'm considering is whether it was fair and reasonable for LV to have settled Mr R's claim by recording it as a fault claim. And having considered the footage shared with Mr R, I'm persuaded it was.

The footage Mr R has seen shows Mr R's car some way from the pavement whilst completing a turn. Mr R strongly rejects this. But LV must consider the likely outcome of defending the claim and going to court. And I'm unable to agree with Mr R's comments that on balance LV should've defended the claim. As I have found LV's decision on Mr R's claim to be fair based on the footage Mr R has seen, the question of the damage to Mr R's car becomes irrelevant for the purposes of determining Mr R's complaint. I'm persuaded LV had enough evidence to say that it wouldn't be able to successfully defend Mr R's claim in court, and so settling the claim the way it did was a fair and reasonable course of action.

After the provisional decision was issued, Mr R was informed that LV and this Service wouldn't be able to share any further footage provided by the TP on the claim. The reason for this was because of data protection concerns.

I understand Mr R's concerns with this Service reaching a final decision on his complaint without sharing all of the evidence provided by LV. However I'm satisfied that the evidence Mr R has been provided with, that is the footage from camera one, is the only material evidence relevant in reaching a fair and reasonable outcome on Mr R's claim, and his complaint with LV. Mr R feels certain that the footage before the recording shared with him is when the TPV collided with his car. Mr R also thinks the footage from the driver's view would prove this. But the evidence I've seen doesn't support this.

In my provisional decision I provided a detailed summary of the footage from camera one that Mr R hadn't seen. I explained why this didn't impact my outcome of the complaint. The footage from the driver's view shows the TPV proceeding in the same way as described for

camera one, except this footage is from a different angle. But the conclusion is the same. There is no evidence of any impact between Mr R and the TPV at any time before the footage from camera one that Mr R has already seen.

I'm satisfied the footage Mr R has requested has no material bearing on the claim, outcome reached by LV, or the decision made by this Service. My decision will disappoint Mr R, but it ends our Service's involvement in trying to informally resolve this dispute between him and LV.

My final decision

For the reasons provided I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R and Mr R to accept or reject my decision before 3 January 2025.

Neeta Karelia
Ombudsman