

## **The complaint**

Mr C complains on behalf of his business, J, about how Zurich Insurance PLC damaged his van after he made a claim on his commercial vehicle insurance.

Reference to Zurich includes its agents.

## **What happened**

Mr C holds a commercial vehicle insurance policy with Zurich. When his van was damaged by water he made a claim for the damage caused.

Zurich declined the claim. It said he wasn't covered because he'd knowingly driven into the deep water. Mr C didn't dispute this.

But Mr C alleges that in dealing with his van, Zurich caused extra damage by using a forklift to lift it. He's said this damage would cost over £9,000 to fix. He thought Zurich should pay for this.

Zurich disagreed. It said at the point the damage was caused, the van was already fairly deemed as salvage – because the cost to repair it following the water damage exceeded its value. It also didn't accept that it caused all the damage Mr C alleged it had. It said the van hadn't passed an MOT since 2021 and that the MOT in 2020 noted corrosion.

Zurich said to put things right it would pay for the damage it accepted it had caused - £1,000, or it would buy the van off Mr C for £3,500 – what it said it was worth as salvage in its current condition – without a working engine.

Mr C didn't agree but Zurich didn't change its stance, so, he brought his complaint here.

Ultimately one of our Investigators recommended Mr C's complaint be upheld. She thought Mr C had reasonably shown the damage was caused by Zurich and thought to put things right it should pay him the market value of his van (£5,000), minus the salvage value (£750). She also thought Zurich should refund Mr C the £300 he'd paid for a report outlining the damage.

Mr C agreed to this assessment, Zurich didn't and asked for an Ombudsman's decision. It maintained the vehicle was salvage at the time the damage was caused, so thinks the most it needs to pay is the devaluation of the salvage caused by the damage it feels it's responsible for.

I issued a provisional decision upholding the complaint. It said:

- *"There's no dispute around whether Zurich need to pay Mr C's claim for damage caused by driving into the water – it doesn't.*
- *There's also no dispute surrounding whether or not Zurich caused damage to Mr C's van while in its care – although the extent of that damage is in dispute.*

- *The damage has been caused by Zurich's actions, it's not a claim on the policy – so that means Zurich's liability isn't strictly limited to the market value of the policy.*
- *What should have happened following Mr C's claim for damage is that his van should have been returned to him in the same condition it was taken from him by Zurich. That didn't happen here – so Zurich needs to, as best it can, put Mr C back in the position he would have been in but for its error in causing damage to Mr C's van. For the avoidance of doubt, that position is his van, with water damage to the engine, but without any damage caused by Zurich's handling of it.*
- *Zurich accepts it caused damage to the prop shaft and fuel tank of Mr C's van, but it says the damage to the sills wasn't its fault. It's said these were already heavily corroded.*
- *I agree the sills were corroded, but that doesn't mean Zurich isn't responsible for the damage to them. They weren't broken before Zurich handled Mr C's vehicle. And I'm satisfied that lifting the vehicle up using a forklift truck caused this damage. So on that basis I do find Zurich responsible for this damage too.*
- *Zurich argues that Mr C's van was already salvage at the point it caused damage to it but I disagree. Zurich wasn't dealing with the claim; therefore it remained Mr C's property.*
- *So I've considered what's the fairest thing to do to put things right for Mr C. He's evidenced that repairs would cost around £9,000. But that same report values his vehicle at £5,000. So, although Zurich isn't limited by the terms of the policy – saying the most it will pay on any claim is the market value – I don't think it's reasonable to require Zurich to pay £9,000 to repair a vehicle that could be replaced for £5,000.*
- *So, to put things right I require Zurich to pay Mr C the market value of his van. I think a reasonable estimation of that market value is the £5,000 plus VAT set out in the report Mr C provided. I've not been provided anything from Zurich to suggest this valuation is unfair.*
- *I've considered whether it would be fair to deduct the cost of repairing the engine from this amount – because the engine needed replacing at the point Zurich caused the damage. But I'm minded to say it's not fair to make such a deduction. And that's because while strictly speaking Zurich need only pay for the van minus the engine – doing so doesn't practically allow Mr C to be put back in the position he should have been in were it not for Zurich causing the damage. That's because he's unlikely to be able to purchase a van without an engine. And the cost of said van without an engine isn't – based on what I've been provided – enough for him to repair the vehicle. The full market value of the vehicle is still less than the cost to repair the damage too.*
- *Normally during a claim, Zurich would be entitled to deduct an amount on account of Mr C keeping the salvage. And although this isn't strictly being dealt with as a claim under the policy, I think it's also fair for Zurich to make such a deduction here. That's because I think not doing so and allowing Mr C to keep his van, and paying full market value for it is betterment on Mr C's behalf. Mr C's report states this amount to be £750 – so that's what Zurich should deduct.*
- *Mr C also had to get a report outlining the damage – something he wouldn't have had to do were it not for Zurich damaging his van. So it needs to pay Mr C the cost of this*

*report (£300), plus simple interest.”*

- *I appreciate the above is by no means an ideal or easy way to rectify the situation, but I’m satisfied based on everything I’ve seen, that it represents the fairest outcome for both Zurich and Mr C.*
- *All this too will have caused a level of inconvenience to Mr C. So for that Zurich should compensate him £250 which I think reflects the impact of the situation on Mr C both in terms of the time the matter has taken to resolve and the frustration caused to him.*

To put things right I said Zurich needed to:

- *“Pay Mr C £5,250 (Market value of £5,000 plus VAT, minus £750 for salvage)*
- *Pay £300 for the engineer’s report – plus 8% per annum simple interest. Interest to be calculated from the date Mr C paid for the report, to the date Zurich makes this payment to him*
- *Pay £250 for the inconvenience caused”*

Neither Mr C nor Zurich responded to that 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.

Because I’ve received no further arguments or evidence to consider, I see no reason to depart from my provisional decision.

Therefore, my final decision reflects the provisional decision set out above, in terms of both reasoning and outcome.

### **My final decision**

My final decision is that I uphold this complaint. To put things right, I require Zurich Insurance PLC to:

- Pay Mr C £5,250 (Market value of £5,000 plus VAT, minus £750 for salvage)
- Pay £300 for the engineer’s report – plus 8% per annum simple interest. Interest to be calculated from the date Mr C paid for the report, to the date Zurich makes this payment to him
- Pay £250 for the inconvenience caused

Under the rules of the Financial Ombudsman Service, I’m required to ask J to accept or reject my decision before 6 January 2025.

Joe Thornley  
**Ombudsman**