

The complaint

Mr B and C – a limited company – complain about the way Aviva Insurance Limited (“Aviva”) settled a claim made on Mr B’s motor insurance policy, following a vehicle leased by C being stolen.

What happened

C entered into a lease agreement for a new car in July 2023 for a period of 48 months. Mr B took out comprehensive motor insurance for the vehicle through Aviva. This was a private policy in his name. Unfortunately, in March 2024 the car was stolen. So, Mr B looked to claim for the vehicle on his policy.

Aviva looked into the claim and, because the car was leased, paid the leasing company £29,791.67 in settlement of the claim; the amount requested by the leasing company to settle the total loss of the vehicle. But Mr B said there was still roughly £9,000 left to pay to settle the lease.

Since the vehicle was leased to C, the leasing company pursued C for the £9,000 it said was due. Mr B complained on behalf of C. He said the valuation of the vehicle was too low and didn’t settle what was owed under the finance agreement.

In its response, Aviva said it was declining the complaint because the lease company owned the vehicle Mr B was insured for and so he didn’t have any financial interest in the vehicle. It said there would be no reimbursement for the pre-accident valuation and that all it had to pay was what the finance company required it to, or the market value of the car, whichever was the smaller amount. Unhappy, Mr B referred the complaint to this service.

Our Investigator concluded Aviva’s payment wasn’t fair and reasonable. He said the valuation guides used to determine a vehicle’s market value had produced valuations which were all in excess of Aviva’s payment. He said a fair market valuation was £41,104 based on those guides. The Investigator noted the contract of insurance was between Aviva and Mr B; and not C. The Investigator said the limit of Aviva’s liability was the market value, so Aviva needed to settle anything outstanding with the finance company up to the market value. But, if there was anything outstanding to be paid after this, Aviva didn’t need to pay it.

The parties didn’t agree so our Investigator considered further information and evidence provided. Aviva offered to increase its payment to the lease company by £4,461.66, taking the payment to the market value of the vehicle excluding VAT. Our Investigator said he didn’t think Aviva should pay VAT because the lease company recovered VAT when the vehicle was purchased and the early settlement invoice provided to Aviva from the lease company excluded VAT. He said the amount C was being pursued for was a termination figure in line with the terms of the lease agreement; and that didn’t include VAT. Our Investigator therefore concluded Aviva’s offer was a fair way to resolve the complaint.

Mr B didn’t agree. He said the leasing company would have paid VAT on the vehicle when it was purchased and would pay VAT on the replacement vehicle. He said C had only been able to reclaim VAT of approximately £800 but he had lost £6,850 of the market value as a

result of the low settlement. He also said he had suffered distress and financial consequences as a result of the car being stolen and having to deal with Aviva thereafter. 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 considered the evidence carefully, I intend to uphold the complaint. But I know Mr B will be disappointed with my decision since I don't intend to require Aviva to meet all of his outstanding claim for recompense.

Vehicle valuation

I have looked at section two of the policy, headed loss or damage. It says, *"if the insured car is under a lease or contract hire agreement where ownership cannot pass to you, the insurer will pay the leasing or contract hire company. The amount the insurer pays will settle the claim. If the insurer's estimate of the market value is less than the amount you owe, you will have to pay the balance."*

The policy goes on to say, *"the maximum amount payable will be the market value of the insured car."*

The policy is clear the maximum amount payable will be the market value of the car.

Market value is defined as, *"the cost of replacing the insured car with one of the same make, model, age, mileage, specification and condition at the date of accident or loss."*

In assessing what constitutes a fair market value we generally expect insurers to review relevant motor valuation guides – which is also our starting point for valuation complaints.

Aviva paid a settlement figure of £29,791.67, which was provided by the lease company to settle the total loss of the vehicle. Our Investigator checked the valuation guides we normally use; this produced the following valuations;

- A £41,104
- B £38,715
- C £35,750
- D £39,750

Our Investigator recommended Aviva should increase the settlement in line with the highest valuation guides to £41,104 (inc. VAT and before excess deduction).

The way we look at valuation complaints is any valuation lower than the highest one of the guides needs to be evidenced as being fair. Since Aviva obtained the settlement figure from the leasing company it didn't obtain any further information or evidence to say whether the amount paid was fair and in line with the terms of the policy. Because it thought that was the limit of its liability.

Looking at the valuation guides I consider a fair and reasonable figure for the market value of the vehicle at the time of loss, including VAT, to be £41,104. This is the highest of the valuation guides

Based on the Investigator's recommendation, Aviva adjusted its valuation of the vehicle to the maximum amount suggested by the guides (£41,104) but then deducted VAT from it. Consequently, the settlement amount it agreed to pay is £34,253.33; so, an additional £4,461.66 to be paid to the finance company.

The maximum payment under the terms of the policy is the market value of the car and Aviva has agreed to pay this, less the VAT. Because the vehicle was leased by and registered to a VAT registered limited company, C, not Mr B himself, I'm satisfied it's fair for the settlement to not include VAT. So, I'm satisfied Aviva's new proposed settlement of £34,253.33 is fair and in line with the policy terms in the circumstances here.

Lease agreement

By taking out a lease agreement, C agreed to make regular payments to a leasing company in exchange for the use of a vehicle for a fixed period of time. After the period ends the vehicle is handed back to the leasing company and C never actually owns it.

When Aviva settled the claim for the total loss of the vehicle, the leasing company told C there was a further £9,000 to pay in settlement of the finance agreement. This was after it gave Aviva the amount it wanted from it to settle the claim. These outstanding costs relate to interest and finance charges and early termination charges of the finance agreement, rather than the value of the vehicle. And it's likely these were agreed to by C when the leasing agreement was taken out.

The terms of the policy with Aviva don't say it will pay all what is owed under the terms of the finance agreement. Instead, Aviva's liability here is limited to the market value of the vehicle and not what is payable under the lease. So, I don't think I can fairly ask Aviva to settle the remaining charges as these are over and above its limit of liability as set out above.

I also have to consider that Aviva insured Mr B, not C. These charges are officially C's responsibility, not Mr B's. But I appreciate in practice he may well be expected or even required to pay them on behalf of C. Ultimately though, I'm not persuaded that's Aviva's responsibility.

The remaining charges owed to the leasing company are in respect of early termination of the finance agreement and go above the vehicle's market value (ex VAT), so I don't think Aviva has done anything wrong in declining to settle all of those. I am therefore not upholding this part of the complaint.

Putting things right

I realise Mr B will be disappointed to receive this decision, I don't doubt this has been a difficult time for him having the vehicle stolen. But I'm satisfied Aviva's revised valuation of the vehicle is in line with the market value, and it has agreed to now pay a further £4,461.65 to the leasing company. So, I think this is fair in the circumstances.

My final decision

Aviva Insurance Limited has already made an offer to pay the lease company a further £4,461.65 to settle the complaint and I think the offer is fair in all the circumstances.

So, my final decision is that Aviva Insurance Limited should pay £4,461.65.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or

reject my decision before 4 September 2025.

Kiran Clair
Ombudsman