DRN-5989059

The complaint

Mr B has complained about the way Aviva Insurance Limited dealt with his claim for damage to his car under his motor policy following an accident.

As Mrs B, Mr B's representative, has been our main contact throughout I shall just refer to her for ease of reference.

References to Aviva include all its agents.

What happened

Mrs B was involved in an accident on 27 September 2024 causing damage to her electric car which was being paid for by a finance agreement with a balloon repayment at the end of the term. Mrs B's car drove into the back of the vehicle in front. Therefore this is a fault claim on behalf of Mrs B.

Mrs B made a claim to Aviva under her motor policy to repair the damage. The car was further stripped to ascertain the level of damage sustained in the accident. This meant that Mrs B complained that her car was further damaged whilst in the care of Aviva and its repairing and/or assessment agents. On the basis of the costs of the damage sustained to the car from the accident, Aviva's engineers were of the view that the car was a total loss.

On this basis then the car was sent to salvage agents without her knowledge which caused Mrs B to complain about that too. Mrs B didn't agree the car should be a total loss as her own repairers said they could have repaired it for far less than Aviva said.

Initially Mrs B wanted Aviva to return her car so her own repairer could repair it. When Aviva did that, and having agreed a cash in lieu settlement of £4,100, Mrs B changed her mind given she felt additional damage had been caused to their car whilst in Aviva's care.

Aviva said the pre-accident value of the car was £6,657 less any policy excess. So that pre-accident value is the market value and would be paid to the finance company. It also offered Mrs B £400 compensation given the delays of nearly five months since the accident.

Mrs B didn't agree with the market valuation. She felt it had been placed on her car in the damaged condition and not what its pre-accident value actually was. Aviva also wasn't responding to her emails disputing the valuation. She was also upset that Aviva initially refused to let her own nominated repairer repair her car.

Dissatisfied Mrs B brought her complaint to us. Ultimately the investigator was of the view it should be upheld and that Aviva should either cover the outstanding balance of Mrs B's finance agreement or instead of the cash in lieu settlement or offer to take control of the repairs with Mrs B's chosen garage to get the car repaired. Aviva should also pay the storage charges and increase the compensation from £400 by £150 to a total of £550.

Aviva agreed to the first option which was to cover the outstanding balance which the

investigator had estimated was £10,492.37 by 18 September 2025, which included the balloon payment issue in their finance agreement, along with covering the storage charges. And it agreed with the increase in the compensation.

Mrs B didn't agree so her complaint was passed to me to decide.

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'm upholding this complaint along the same lines as the investigator, with which Aviva has already agreed. I appreciate Mrs B will be disappointed, so I'll now explain why.

Mrs B said she disagreed with the outcome suggested by the investigator as now agreed by Aviva for the following reasons:

- She chose a four-year finance agreement for her car as it provided her with the flexibility to retain the car by settling the balloon payment. She intended to keep the vehicle because it was well maintained and reliable. She planned to make the balloon payment and retain the car.
- However, Aviva wrote off her car without her consent or knowledge and provided no evidence to justify that decision that her car was a total loss. It never got a second opinion about the total loss decision. She drove the car following the accident on 27 September to 30 November 2024 without issue, so she didn't think the damage to her car was that catastrophic.
- Aviva also caused further damage by removing parts and sent the car to salvage without her knowledge or consent.
- If the car was a total loss, why did it later propose to repair the car with green parts and without gaining consent for these green parts from her finance company.
- As a result, Mrs B feels forced into a new long-term finance arrangement, increased future financial commitments given the loss of a car she intended to keep. Along with the need to purchase a replacement car at a much higher price.
- So Mrs B wanted - settlement of the full outstanding finance agreement – provision of a replacement car of the similar make, model, mileage and specifications or a financial award equivalent to buy such a car – and payment of all the storage costs.

The investigator already suggested that Aviva cover off the remains of the finance agreement which includes the balloon payment plus all the storage costs. Aviva agreed to this so neither of these issues now remain in dispute, despite Mrs B bringing them up again as reasons for her disagreement of the investigator's view. So I will not discuss the storage costs in this decision since Aviva is agreeing to pay them other than to mention at the end that Aviva is paying the storage charges. It is notable that these storage charges only came into being because the car was moved from the salvage yard back to this repairer at Mrs B's request because at that time she wanted her car repaired. She then changed her mind about that. If this hadn't happened no storage charges would have accrued in this way.

So in real terms the only issue remaining is Mrs B's wish for Aviva to replace her car with another one, along with her disagreement that her car should have ever been declared a total loss, along with the alleged further damage she believes Aviva caused to her car and

lastly the service issues with communication difficulties and delays which Mrs B believes are the fault of Aviva.

Aviva's right to make and decide the claims decision.

Under every motor policy, the claims decision is made by the insurer alone. Aviva's policy with Mrs B is no different.

The policy says the following:

> ***'Our rights***
> ***…***
> ***We*** *shall have full discretion in the conduct of any proceedings or the settlement of any claim.'*

As this is in virtually every single other motor policy, I don't find it unusual or significant. So it is for Aviva to decide whether any policyholder's car is capable of being repaired or whether the costs of the repairs make it uneconomical to repair. This isn't something Mrs B was entitled to have to consent to either. Effectively because she agreed to Aviva's offer of insurance she is also deemed to have agreed to the policy terms additionally. So I consider that Aviva didn't do anything wrong in coming to this decision without Mrs B's consent or knowledge until its decision was made.

Furthermore, Aviva and no other motor insurer is under any duty to incur further funds to get second opinions on their decisions about claims decisions either. If a policyholder doesn't agree, the normal course of events is that the policyholder obtains another engineer's report at their initial cost too which is then considered. I will come to the issue of Mrs B's own repairer and what they said they could do, later on.

Regard by the insurer for the policyholder's own wishes does come into play also, but essentially insurers are permitted to come to their own claims decision given they deal with accident damaged cars daily and indeed liability decisions, which is not in issue in this case.

Aviva's engineer's assessment of the damage to Mrs B's car.

In common with almost every other insurer, Aviva's engineer runs the damage caused in the accident through a specialised software programme. This is common industry practice so I don't consider it unusual or significant or indeed detrimental to policyholders. There are two such reports on Mrs B's car. The first one was done on 11 December 2024 by Aviva's own assessors with the date of inspection being 26 November 2024.

Labour for panel/mechanical was listed at £556.00. Labour for paintwork was listed at £492.00. Cost of paint was listed at £1,235.40. Total parts required was listed at £6,855.85. Extras dealing with the fact it was an electric car so needed varying systems reset, was listed at £305.00. So the cost of repair came to £9,444.25. This engineer gave a market value of the car as £6,826.00. Therefore given this market value the car was deemed uneconomical to repair since the costs of repair exceeded any market value.
It's common when assessing cars that some parts are stripped to ensure there is no structural damage. Indeed insurers are under a duty to do that since they also are under a duty to list the write off category too, which can affect whether the car can be driven again, depending on the damage sustained and inspected. So the necessity of ensuring no structural damage is very central to Aviva's duty also. Here, because it was clear on the basis of the estimate for repair which exceeded the market value at that stage also estimated, that the car was going to be a total loss, the stripped parts weren't replaced, as the car was then sent to a salvage yard. However the parts were retained in the car as I

understand it. Therefore I don't consider Aviva caused further damage as such to Mrs B's car or more importantly that it affected the market valuation either. The market valuation is set on the pre-accident condition of the car, not what happened since.

The second report was done on 18 March 2025 with the date of inspection being 17 February 2025 at Mrs B's own repairer. This time the market value was estimated to be £6,657.00. Mrs B's repairer had estimated the cost of repairs to be £4,485.38. The report noted that the Aviva's assessors had stripped parts of the car and hadn't put it back together before sending the car to the salvage yard, as it was deemed a total loss.

From the notes of the engineer, it was clear from Mrs B's repairer that Mrs B wanted this car back on the road and that the repairer was prepared to work with the insurers to make this happen. It was also noted that the repairers would use green parts, something the finance company later then didn't agree to. The upshot was that the repairer said he could repair the car for £4,100.00 to the satisfaction of the owner, Mrs B. Therefore the engineer recommended a cash in lieu settlement of £4,100. But then the engineer noted that the goalposts have changed as Mrs B no longer wanted the car repaired and that she had instructed a solicitor who would contact Aviva's claims team, so the matter was left in abeyance at that time.

I consider Aviva considered the damage to Mrs B's car appropriately and in line with industry practice. I also consider Aviva paid appropriate attention to Mrs B's and her repairers' wish to repair this car for a lesser sum and indeed correctly agreed to that given it was Mrs B's wish at that time. Obviously that was also to Aviva's advantage along with Mrs B's advantage as Mrs B's repairer's quote to repair the damage was well below any market value of the car too. Given Aviva has the right to decide how to settle claims, its later agreement to a cash in lieu settlement was also reasonable in my view.

The finance agreement Mrs B chose to purchase her car and the market value of the car.

In the policy which is in line with virtually every other motor policy the most Aviva (or any car insurer) is liable to pay the policyholder for the damage to their car caused in an accident is the 'market value' of the car.

Aviva's policy defines *'market value'* as *'the cost of replacing **your vehicle** with one of the same make, model, specification and condition. The market value determined at the time of loss or damage, may also be affected by other factors such as mileage, MOT status (if one is required), how you purchased **your vehicle** and whether it has been previously declared a total loss'.*

Under *'Section 1. Loss of or damage to your vehicle'* the policy says the following:

> *'If **your vehicle** is lost, stolen or damaged, **we** will:*
>
> - *Repair **your vehicle** unless you notify **us** that you want **us** to pay someone else to repair it; or*
> - *Pay you a cash amount equal to the loss or damage*
>
> *…*
>
> ***We** may decide to use parts or accessories not supplied by the original manufacturer, but which are of a similar standard, including recycled parts.*
>
> ***…***
>
> ***The most we will pay is the market value of your vehicle*** [my emphasis]***'***

As Mrs B is aware from the investigator's first view, there can be lots of discussion of what amounts to a reasonable market valuation of a car and much emphasis is put on what the valuation guides advise. It's also not an exact science either.

In the normal course of events provided the policyholder is the 'owner (depending on the lease agreement and whether the policyholder can insure it) and registered keeper' insurers are generally disinterested in how the policyholder bought the car and whether they paid a reasonable price for it either. More so too, given the insurer's liability is never going to be higher than the market value of the car.

Aviva highlights this in its policy as it says the following:

> ***'What if my car is on finance?***
>
> *If **we** know that your **vehicle** is still being paid for under a finance agreement, **we** will pay any claim to the owner described under that agreement.*
>
> - *Where **your vehicle** is on finance and the agreement allows you to own or purchase the vehicle, any difference between what **we** pay the finance company and the **market value** will be paid to you.*
> - *Where **your vehicle** is not or cannot be owned by you under the agreement (contract hire and some leasing arrangements) **we** will pay its asset value to the true owner.*
>
> *If the outstanding amount of your finance exceeds any payment made under this policy you will still be responsible for paying this.*
> *The most **we** will pay is the **market value** of **your vehicle**.'*

Aviva in agreeing to the investigator's second view has now agreed to clear off the remaining balloon payment Mrs B was liable for under her chosen finance agreement. Therefore it is now essentially paying more than the market value of Mrs B's car. Given the circumstances, I consider this is both reasonable and generous of Aviva. Therefore there is nothing to show me it has done anything wrong by deciding this. In fact in reality, it puts Mrs B in a much better position than what the policy provides, as it effectively gets rid of her liability to the finance company altogether, given the method of finance she chose with this balloon payment issue at the end of the term. This also means that the car now becomes the property of Aviva too.

Mrs B is adamant she was going to pay the balloon payment and keep this car had the accident not occurred. So, I consider that Mrs B was obviously already budgeting to pay this balloon payment. Now Aviva has in effect paid it for her in any event which means Mrs B no longer has to budget for it. That is very advantageous to Mrs B in my view.

Mrs B's belief that Aviva should provide her with a new car.

There is no policy term showing that in addition to paying the market value of this car, to include also paying off the finance agreement as Aviva has agreed to do here, which in effect absolves Mrs B's liability to do so, given the financial agreement she chose to buy her car with, that Aviva has any further liability.
The policy provides for a new vehicle replacement if the car was within 12 months from buying it from new. That isn't the case with Mrs B's car. Plus in any event Aviva have amply satisfied their liability under the policy to pay the market value of the car with its agreement to pay off Mrs B's chosen finance agreement with its balloon payment. So there is no further liability under the policy to Mrs B, and certainly not to provide any replacement car.

Mrs B told us she was planning on paying for the balloon payment so obviously would have been budgeting for it given it's not an insignificant sum. Since Aviva has effectively paid that

for her now, it remains Mrs B's budget for this balloon payment now doesn't need to be paid to her finance company at all, so those funds remain hers. To reiterate, Aviva has no duty or liability to Mrs B to provide any car to her since it has most definitely paid Mrs B more than the market value of the car.

As regards any issues that Mrs B had to continue to pay the finance repayments throughout this, I consider that Aviva kept Mrs B in a hire car throughout this period, so that head of claim also falls away.

Compensation.

Aviva acknowledged its delays and some difficulties with its communication with Mrs B. It initially paid her the sum of £400 compensation. The investigator suggested this should be raised to £550 and Aviva agreed. Our approach to compensation is more fully detailed on our website. For the bracket from £300 to £750 is where the impact by the business caused considerable distress and worry and where it took many weeks or months to sort out. Therefore, the sum of £550 falls within this bracket. Consequently, I consider it's fair and reasonable compensation for Mrs B's trouble and upset.

My final decision

So for these reasons, it's my final decision that I'm upholding this complaint.

I now require Aviva Insurance Limited to do the following:

- Pay the outstanding balance of Mr B's finance agreement, less any excess payment as Aviva has now agreed, with the car now becoming Aviva's property. This absolves the need to pay any interest in addition.
- Pay the storage charges charged by Mr B's chosen repairer, as Aviva has already agreed.
- Pay Mr B an additional £150 to the £400 it already paid him in compensation, making the total £550.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 February 2026.

Rona Doyle
Ombudsman