

complaint

Ms A is unhappy with the inefficiency and delays in Zenith Insurance plc's ("Zenith") handling of a claim she made under her motor insurance policy.

background

The background details of this complaint were set out in full in my provisional decision dated 25 July 2013. As the facts are relatively complicated, a copy of the provisional decision is attached, and forms part of this decision.

I asked the parties to respond to my provisional findings within one month. Zenith rejected my decision, and disputed the issue of the policy excess. It pointed out that not only was the policy excess shown in the policy schedule but that it had contacted the broker, who confirmed that Ms A had opted to pay it in her online application. However, the broker was unable to provide Zenith with a copy of the application or a recording of the subsequent telephone call between it and Ms A.

Ms A accepted my provisional findings, but made a number of further comments. In summary, she remained adamant that she had not agreed to the voluntary element of the policy excess at any point and that she was unaware of it. She also reiterated her disappointment with the service she received from Zenith overall, the length of time it had taken to deal with the matter, the lack of an apology from it and the extent of the distress and inconvenience she had experienced as a result. Ms A pointed out that she had received no interest from Zenith to date. In addition, she said that she was having difficulty in reclaiming the sum paid to the finance company by Zenith.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. On balance, I am not persuaded that I should depart from the findings set out in my provisional decision.

I accept that Ms A was not aware of the voluntary element of the policy excess. The schedule is not particularly clear, in my opinion, and although I appreciate the broker assured Zenith of the choice Ms A made, she is adamant that she did not agree to the additional sum, and there is no evidence to the contrary.

The sum suggested for distress and inconvenience in my provisional decision was intended to compensate Ms A for Zenith's unsatisfactory service and delays, which I accept caused her considerable upset. We are not able to require an insurer to apologise to a consumer, although I appreciate that an apology is often very helpful in moving matters on, and I understand why it is important to Ms A. In terms of the monies paid to the finance company by Zenith, I can only repeat what I said in my provisional decision; in my view, Zenith had no option but to do that, and any reimbursement will have to be a matter that is arranged between the relevant parties. The interest payment referred to by Ms A will be made by Zenith once I have issued my final decision.

My final decision

My final decision is that I uphold this complaint. I require Zenith Insurance Plc to do the following:

- Reimburse Ms A with £250 for the policy excess paid by her
- Calculate the remaining interest on the settlement sum for the car, at 8% simple p.a. from 6 June 2012 until the date of settlement. This sum should be paid to the finance company if appropriate, or otherwise to Ms A
- Pay Ms A £490 loss of use and £300 for distress and inconvenience.

Susan Ewins
Ombudsman

PROVISIONAL DECISION	
complaint by:	Ms A
complaint about:	Zenith Insurance plc
complaint reference:	1186-9384/DM/IS21
date of decision:	25 July 2013

I have carefully considered the relevant information about this complaint. Having looked closely at the evidence, I am considering departing from the conclusions reached by the adjudicator.

Subject to any further comments and evidence that I receive by 27 August 2013, I intend to issue a final decision along the following lines. Final decisions will be published. To prevent the consumer being identified, she will be referred to as "Ms A".

complaint

Ms A is unhappy with the inefficiency and delays in Zenith Insurance plc's ("Zenith") handling of a claim she made under her motor insurance policy.

background

Ms A's car was seriously damaged by fire in March 2012. I am satisfied that the circumstances surrounding her claim were particularly stressful. Ms A was asked to send a number of documents to Zenith, including her licence and the car's V5 registration document. Initially, Zenith investigated a discrepancy with the address it had on record for Ms A and following that, in April 2012, it arranged for a loss adjuster to investigate the claim. The report was sent to Zenith on 26 April 2012 with the recommendation that the claim be dealt with and highlighting Ms A's concerns at the ongoing delays.

Zenith says the front page of the V5 was not included when Ms A sent in her documents and requested the missing page or a duplicate from her. As Zenith had misplaced her copy licence on three occasions, Ms A said she was not prepared to obtain a duplicate V5. In her view, Zenith had lost it. Ms A was advised by Zenith that it could not complete the settlement for the car without a V5 document.

It also advised Ms A that its engineer had valued the car at £5,815 (before the deduction of the policy excess). Ms A rejected the offer. Zenith asked her to submit three or more advertisements in support of her valuation arguments, but Miss D did not do so. She did, however, make a verbal complaint about the delays to date, the valuation and Zenith's unhelpful staff. She submitted a written complaint on 11 June 2012. Ms A also said she had been forced to make numerous calls to Zenith, on a premium rate line.

Zenith sent its final resolution letter to Ms A on 23 July 2012. It accepted that it *may* have mislaid the front page of the V5, but pointed out that under data protection rules it was unable to obtain a duplicate on Ms A's behalf. It offered to reimburse the cost of obtaining a duplicate. Zenith also explained how it had reached its valuation for her vehicle and again invited her to provide evidence for the dispute about it. Zenith said it had listened to call recordings and did not consider there was any evidence that its staff were rude and unhelpful. It added that following Ms A's requests for a manager to call her, that was attempted on two occasions. The manager was unable to make contact and left voice

messages requesting a return call. It also pointed out that its telephone number was not a premium rate line.

Ms A complained to this service and submitted documents highlighting the financial difficulties she was experiencing and the service issues with Zenith. The adjudicator first tried to resolve the issue over the V5, which was preventing any progress with the claim. He advised Ms A that the form would have to be obtained by her, and that it would be free of charge, in November 2012. Ms A notified the adjudicator that she had sent the duplicate V5 to Zenith in January 2013.

The adjudicator upheld the complaint in February 2013. In his view, although Zenith had advised Ms A relatively quickly that she would need to obtain a duplicate V5 it could have checked with the DVLA to ascertain the precise process and advised Ms A accordingly. He thought that might have speeded up the process. He was also of the opinion that the valuation for Ms A's car was low, and requested an increase of £280 in the sum offered. He considered the time taken to investigate the claim was unreasonable; for example, the loss adjuster was not appointed until a month after the incident. However, the adjudicator also took the view that Ms A's refusal to apply for a duplicate V5 had contributed to the delays. In his opinion, had Ms A responded to Zenith's request to obtain the duplicate V5, she would probably have received it within three weeks, i.e. by 6 June 2012.

The adjudicator calculated Ms A's inconvenience for the loss of use of her car at our standard rate of £10 a day. He thought that had the claim investigation commenced more quickly, the enquiries could reasonably have been concluded in 28 days, which would have been by 18 April 2012. The adjudicator calculated a period of 49 days loss of use between 18 April and 6 June 2012 (when the V5 could have been obtained) producing a figure of £490. In addition, the adjudicator considered £150 for distress and inconvenience to be appropriate.

Zenith responded through its claims department asking Ms A to provide evidence of the value of her car. It did not seem to be aware of the ongoing investigation of the complaint through this service. In the meantime, Ms A advised the adjudicator that because of her ongoing financial difficulties, she had entered into an Individual Voluntary Arrangement (IVA), arranged through an accountancy firm. As part of the IVA, repayment arrangements were made with the finance firm that had loaned Ms A money for the car. The adjudicator advised Zenith of this.

In February 2013 Ms A said that she was prepared to accept the initial offer of £5,815 for her car. Zenith considered the delay in settlement was initially the result of Ms A not sending in her licence, but said once the claim was validated, enquiries were completed by May 2012. Although Zenith had initially been prepared to accept that Ms A had sent in the missing front page of the V5, it now stated that Ms A could not prove it had been sent.

It was not until 29 April 2013 that Zenith responded to the suggestion for an increase in valuation from the adjudicator in February. Zenith agreed to pay the settlement sum for the car, plus interest. It also said it would pay £150 for distress and inconvenience, but did not agree to a payment for loss of use. Ms A strongly rejected the offer of £150. The dispute about compensation continued, but as Ms A was becoming more distressed at the ongoing delays and the problems arising from being without a car, the adjudicator asked Zenith if it would be prepared to pay for the car in the interim.

Zenith sent the agreed payment for the car, less Ms A's £350 policy excess, direct to the finance company. It did not pay the interest on the sum due. Ms A had expected to receive the payment for the car herself, in order that she could fund a replacement vehicle; she had already made arrangements to pay off the finance company debt as part of the IVA, and the finance company had agreed that she could use the money from Zenith to purchase a car.

The adjudicator had drawn the IVA arrangement to Zenith's attention, but he was of the view that Zenith was obligated to pay the finance company, rather than Ms A direct. The sum due was less than the sum owed to the finance company. The accountancy firm concurred, and agreed to contact Ms A. However, as it did not do so, Ms A remains convinced that Zenith acted inappropriately. She also considers that the policy excess was not as much as £350.

The adjudicator pointed out that Zenith had failed to pay interest and Zenith then did so, for the period from 18 April 2012 until 6 June 2012. The adjudicator advised Zenith that this figure was incorrectly calculated, as it had rejected the original assessment. He requested that Zenith re-calculate the interest payment until the date the settlement was finally paid for the car. He also asked Zenith to provide evidence that Ms A had agreed to a voluntary excess of £250, in addition to the mandatory excess of £100. No response was received, and given the extent of delays and Ms A's financial position, the file was to me for review.

my provisional findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I am satisfied that the agreed sum for the car has been paid, but I am minded to agree with the adjudicator that interest should be added up to the date the settlement sum was paid. In my view, Zenith had no option but to pay the settlement sum to the finance company, as the car was technically owned by it. In my view it is for the finance company to make arrangements for any transfer of funds to Ms A, in line with the agreement between the parties (to which Zenith was not a party). As there is no evidence to date that Ms A's policy excess was £350, I am minded to conclude that Zenith should also reimburse £250 to her.

I agree that Zenith appears to have delayed in dealing with this claim. Ms A has provided evidence that she had to send copies of her licence to it on four occasions, and it is also possible that it mislaid part of the V5 document. Once this service became involved, there were delays in responding to the adjudicator, which prevented him from progressing the matter. Zenith also appears to have been confused about the complaint at times, which did not assist in its handling of the matter. I am satisfied that Ms A was caused distress and inconvenience by all this.

However, I am minded to conclude that Ms A was also responsible for some of the delays. In particular, her decision not to obtain a copy of the V5 document, and the lapse of time after she agreed to do so before it was sent to Zenith, caused a substantial delay. I am aware that Ms A was ill at times, which will no doubt have contributed to that. Our awards for distress and inconvenience are normally modest, and in my opinion, £300 would be an appropriate sum in this case. I am minded to conclude that a loss of use payment would also be appropriate, and in my view the adjudicator calculated an appropriate sum based on a realistic period of time.

my provisional decision

My provisional decision is that I am minded to uphold this complaint and to require Zenith to do the following:

- Reimburse Ms A with £250 policy excess
- Calculate the remaining interest on the settlement sum for the car, at 8% simple p.a. from 6 June 2012 until the date of settlement. This sum should be paid to the finance company if appropriate, or otherwise to Ms A
- Pay Ms A £490 loss of use and £300 for distress and inconvenience

To avoid raising expectations, the parties should be aware that I might alter my conclusions (either wholly or in part) depending on any representations I receive. Alternatively, I would be grateful if both parties would let me know as soon as possible if they accept my provisional decision.

Susan Ewins
ombudsman