

complaint

Mr M has complained that Covea Insurance plc, his motor insurer, is refusing to pay for storage charges he incurred for his car after it was damaged in a road accident.

background

I issued a provisional decision on this complaint earlier this month. An extract follows:

"Mr M was involved in a road accident in October 2015. His car was damaged and he arranged for it to be towed by a recovery agent. He says the recovery agent told him he couldn't leave the car on the road as it was badly damaged. So it was taken to a storage facility and has remained there since. Mr M also said that he was told that the car was beyond economical repair i.e. a total loss.

Mr M says he called his broker and Covea to report the accident. He said he was very worried about the storage charges so he made sure he told Covea the car was in storage. He says as the car was a total loss he thought it became Covea's responsibility.

In July 2016 Mr M says he was being chased by the storage facility who told him that the car was still there and had been incurring charges since October 2015. Mr M told his broker and also called Covea. Covea told Mr M this was the first time it was being made aware of the fact that he wanted to make a claim. It also told him that it wouldn't be responsible for the storage charges because of the delay. Mr M complained.

Covea rejected Mr M's complaint. It said Mr M never made a claim or report the accident to it. It said it was notified of the accident in November 2015 by the third party and called Mr M a number of times but he didn't return its calls. As a result it instructed an investigator to get in touch with him.

Covea also said it received a letter from Mr M in February 2016 but didn't do anything with it because the letter only said that Covea should provide the Driver & Vehicle Licensing Agency (DVLA) with certain information if the DVLA contacts it. It said the letter didn't say that Covea should contact Mr M.

Covea also said the first time it was made aware of the claim and the fact that the car was in storage was in July 2016. It said it found out from the storage facility that it had been chasing Mr M for the storage charges since December 2015 but he never told Covea.

Mr M then complained to us. Our adjudicator thought that Covea should pay for storage charges between February and July 2016 because it should've made further enquiries after receiving Mr M's letter in February 2016. Covea didn't agree and said it would pay three weeks' worth of storage and the recovery charge because this is what it would've paid had it been made aware of the claim from the start.

Mr M also didn't agree and asked for an ombudsman's decision. He said he reported the accident to Covea on the same day and made it aware of the fact that the car was in storage. He also said he provided Covea's investigator with an invoice when he filled in the accident report form and as the car was a total loss and he thought this meant it was Covea's responsibility. He also said his car was worth less than his excess and he might have told the broker he didn't want a pay-out for the car because he didn't want this to affect his future premiums and thought any payment would be offset against an increase in

premium. He also said he couldn't understand how Covea settled the third party claims without letting him know.

the previous ombudsman's provisional decisions and the parties' comments

The matter was considered by another ombudsman who issued two provisional decisions. In her first provisional decision the ombudsman rejected the complaint because she said she couldn't see that Covea was aware of the storage charges before July 2016 or that Mr M wanted to make a claim.

Mr M didn't agree. He said he was surprised that Covea instructed an investigator to speak to him about the accident because he had already spoken to Covea about it. But he called the investigator in any event and asked if he should attach the recovery invoice and the investigator said "yes". He also said his broker's phone logs show that Covea notified it of the accident in October 2015. He said when Covea asked him if he wanted to make a claim in July 2016 he said "no" because he didn't understand what this meant. But he still wanted it to take care of the car and the storage charges. He said he sent his vehicle registration document to his broker and doesn't understand why Covea didn't request a copy of it.

In her second provisional decision the ombudsman said Covea should pay 50% of the storage charges. She said she'd seen evidence that Mr M did report the accident to Covea in October 2015 and told it about the car being in storage. She also thought Covea should've made further enquiries with Mr M further to his February 2016 letter which it confirmed it had received but hadn't actioned. At the same time the ombudsman said that Mr M had failed to mitigate his losses and could've taken more steps to bring the charges to Covea's attention.

Covea said that although it didn't contact Mr M in October 2015, it was notified of the accident a few days later, by the third party. It said it wrote to Mr M and called him a few times but he didn't respond. It also said that if Mr M's car needed recovering it would've sent over a recovery agent. But Mr M didn't ask for this and had he done so the storage costs would've been negligible.

hearing request

Covea asked for a conference call with the previous ombudsman but the ombudsman didn't agree. In addition to its previous comments Covea said it had concerns about validating the claim costs. It said it hadn't seen an invoice from the storage facility. It said in its experience it's unusual for a storage facility to let storage costs get this high. It would usually dispose of the car and notify the DVLA or return it to the owner. Covea also asked for additional time to investigate the matter.

The complaint has now been passed to me to make a decision.

my provisional findings

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 considering upholding it in part.

hearing request

I'll firstly deal with the hearing request and the request for more time. As I am now issuing a further provisional decision, Covea will have additional time to look into the matter.

To decide whether a hearing is necessary, I have to consider whether we have enough information to be clear what the complaint is about; consider that complaint; and come to a view on the merits of the case.

We only hold hearings in exceptional cases. A fair and unbiased decision isn't dependent on an oral hearing being held. The purpose of a hearing is for the ombudsman to get a clearer picture of the events that led to the complaint (especially when this is not clear from the evidence before us). I feel that in this case we have all the information necessary to make a fair decision and for that reason I don't think that this case falls within that category. So I don't think a hearing is necessary.

timeline of events

I think it would assist if I start by providing a timeline of events based on the evidence I've seen.

October 2015

I can see that Mr M reported the accident to Covea on the day it happened and I've listened to the relevant call. Mr M called an out of hours claims line and spoke to an advisor who told him he'd gone through to the "Covea claims team". Mr M told the advisor what had happened and the advisor said he'd pass the details to Covea in the morning.

The advisor asked Mr M where the car was. Mr M gave him the name of the storage facility and said he'd been told it was a write-off. He said it had been recovered to the storage facility by a recovery agent.

The advisor told Mr M that Covea would be in touch with him the following day in order to discuss next steps in relation to his claim. Before the end of the call Mr M told the advisor he was concerned about storage charges and thought that the storage facility would be charging those by the day. The advisor told him that Covea would include all this in the cost of the claim so he shouldn't worry about it.

Based on the above I think Covea was aware of the accident and of the fact that storage charges were accruing from the day of the accident. It was also made aware of the car's location. I've also seen a copy of the report completed by the advisor. It confirms the address that the car was being held at.

Covea said it can't confirm whether it ever received this report. I don't think this means it wasn't notified. I appreciate that the out of hours helpline was provided by a firm of solicitors. But I think the solicitors' were acting as Covea's agents. As I said above the advisor told Mr M he'd gone through to the "Covea claims team". I think this confirms was Covea's agent. So the fact that the solicitors were notified means that Covea was also notified. And I think this left Mr M in no doubt that he reported the incident to Covea.

Though the advisor told Mr M Covea would call him the following day, I can't see that it did. And I also can't see that it took any action in relation to Mr M's car.

November 2015

Covea said this is the first time it was notified of the accident, through the third party. It said this was only a few days after the accident in any event. It said it called Mr M a number of times but he never called it back. It said it also wrote to him but he failed to respond.

Covea has provided recordings of voicemails it left for Mr M and I've listened to them. The recordings don't confirm that Covea had called the correct number. Mr M said he didn't receive any calls.

But in any case I can see that Covea wrote to Mr M on 4 November 2015. I can see that the letter was addressed to the correct address so, on balance, I think this letter was sent to Mr M and as far as I know he doesn't deny receiving it. But the letter says that if he has already reported the accident to Covea he should ignore it. Covea wrote to Mr M again on 9 November 2015 asking him to report the accident.

Around the same time Mr M bought another car. From what I've seen he called his broker and replaced his old car with a new one on his existing policy.

Covea then instructed an investigator to make contact with Mr M. From what I've seen, the investigator wrote to Mr M on 23 November 2015 asking him to complete an accident report form and as far as I can tell Mr M completed this.

Covea said the investigator was only instructed in order to gather information to help it assess liability for the accident. But Mr M had already said he was at fault for the accident when he reported the accident in October 2015. Even if Covea wasn't aware of this, I don't understand why it was only making enquiries about liability and no enquiries about Mr M's car.

In the accident report form Mr M said his car had been damaged. And he had comprehensive insurance through Covea. This means that his policy covered his own vehicle damage. I would've expected Covea to contact Mr M at least after receiving the accident report form to make enquiries about his car. And I think Covea should've provided Mr M with reasonable guidance to help him make a claim. Covea said Mr M told it he didn't want to make a claim. But, from what I've seen this wasn't until much later- in July 2016. As far as I can tell Mr M made it clear to Covea in October 2015 that he was concerned about the storage charges. I think this meant that he wanted Covea to take care of the car or at least that this wasn't something he was looking to do himself.

Mr M said he spoke to the investigator and told him about the car being in storage and sent him details about the recovery to the storage facility. I haven't seen any evidence of this, other than what Mr M has said.

December 2015

Covea says it's been told by the storage facility that it had been chasing Mr M for the storage charges since December 2015. But I've seen no evidence of this other than what Covea says. But even if that was the case, as Covea was aware of the fact that the car had been in storage since October 2015, this is something it should've been proactively dealing with.

February 2016

Mr M wrote to his broker and enclosed a copy of his vehicle registration documents and said this had been requested by the DVLA. Mr M told us that his broker asked him to send this information but I haven't been provided with a copy of the call to that effect in order to know why that was. In the letter Mr M said that he couldn't provide the DVLA with the storage

facility's address but he gave its name in the letter. He said the documents he was given by the recovery agent were posted either to Covea or the broker so he no longer had them. He asked that if the DVLA asks for this information that the broker should provide it.

The broker said it forwarded this letter to Covea, who accepts that it received it. Covea said it didn't do anything about the letter because it simply asked it to provide the DVLA with information if requested.

But the letter also said that the car had been written off. If Covea had considered the letter properly it would have realised that this wasn't the case because it hadn't written it off. And this is something that should have made it look into the matter further. The letter also gave the name of the storage facility. This was perhaps another opportunity for Covea to look into the matter again and make some further enquiries with Mr M.

As I said above Mr M made it clear in October 2015 that he was concerned about the storage charges and he was told this is something the insurer would take care of.

July 2016

From what I've seen Mr M made a number of calls to his broker and to Covea in July 2016. He said this was because the storage facility was threatening court proceedings as the car was still in storage.

Covea told Mr M this was the first time it was being made aware of the claim and that the car had been in storage since the accident. It told him it wouldn't be responsible for any of the storage charges.

Covea says Mr M told it he didn't, in fact, want to make a claim. My understanding is that Mr M said he didn't want to pay his excess because it was more than what the car was worth. And he said he was under the impression that the value of the car (the salvage) would've been offset against his future premiums. I can't see that this is something Covea told him so I think this is something he assumed himself. But if Covea had dealt with Mr M's car in October 2015, like it said it would, this is something it could've discussed with him at the time. And I think it's likely it would've had to explain that unless Mr M made a claim it wouldn't have been able to deal with his car and the storage charges. Under those circumstances Mr M would've, on balance, decided that he wanted to make a claim.

Mr M was also under the impression that the car had been written off in October 2015 but as only Covea could've done that, I don't think the car was ever written off. But I don't see that this was explained to Mr M until July 2016. The advisor Mr M spoke to in October told him this would be added to the cost of the claim which Covea would be dealing with so he had nothing to worry about. But it doesn't appear that Covea did deal with it.

August 2016

Covea emailed Mr M on several occasions in August 2016 to say it wouldn't be responsible for any of the storage charges or any future charges that would accrue as a result of the car not being collected. It also told Mr M it was his responsibility to remove the car from storage and pay the charges.

I think this should have alerted Mr M to the fact that there was a risk Covea wouldn't pay for any of the storage. At that stage I would've expected him to take some steps to remove the car from storage to prevent further charges from incurring.

As far as I understand the car is still in storage and the charges are still accruing.

For the reasons I've given above, I think Covea should be responsible for the storage charges from the date of the accident- because it was notified of the accident and of the car being in storage on the same day. But I think it should only be responsible up to 28 July 2016 when it first told Mr M it wouldn't be responsible for the charges and that it was his responsibility to remove the car from storage in order to minimise costs.

Covea said it is concerned about validating the charges. It said in its experience the storage facility would've got rid of the car a long time ago and wouldn't have allowed such high charges to accrue especially for a car of very modest value.

I've seen emails from the storage facility to Mr M but I haven't seen its invoice. But I don't think there is anything stopping Covea from trying to negotiate the storage charges it's responsible for down.

I appreciate Mr M will be disappointed with my decision and I appreciate that he finds himself in a very unfortunate situation. But I think at the point when he should've realised that there was a real risk that he would be responsible for at least some of the charges, he should've taken control of the situation and tried to mitigate his losses. And I think that point was in July 2016.

distress and inconvenience

Mr M was told in October 2015 that Covea would take care of his car and the storage but this wasn't the case. Mr M has had to deal with the storage facility directly. Covea should've called Mr M the day after the accident, like it said it would, in order to discuss next steps. And what should've happened is that Covea should've explained to Mr M that in order for it to deal with the storage he would have to make a claim on his policy so that Covea could inspect the car, declare it a total-loss if it was one, and taken the car out of storage.

So Covea failed to explain the correct process for dealing with the matter to Mr M. Mr M continued under the false impression that Covea was responsible with his car. And he now finds himself being chased by the storage facility for tens of thousands of pounds' worth of storage that could've been avoided had Covea done what it said it would do on the day of the accident.

I think this caused Mr M a significant amount of distress and inconvenience and I think Covea should pay him £800 to compensate him for this.

my provisional decision

For the reasons above, I'm considering upholding this complaint in part and requiring Covea Insurance plc to pay Mr M's storage charges from the date of the accident up to 28 July 2016, subject to the applicable policy excess. Covea Insurance plc may liaise with the storage facility directly in terms of the charges and the invoice and it must make clear to the storage facility that it is responsible for the charges between the date of the accident and 28 July 2016. This is so that the storage facility doesn't continue to chase Mr M for Covea Insurance plc's share of the bill/invoice.

Covea Insurance plc must also keep Mr M informed of any reduction it is able to negotiate to its part of the bill/invoice. This is so he can ensure that any reduction Covea Insurance plc agrees isn't added to his share of the bill.

I'm not aware of a policy limit that would apply in these circumstances. And from what I've seen the overall charges are currently around £30,000.

Covea Insurance plc must also pay Mr M £800 for the distress and inconvenience it caused him."

developments

Both parties responded to my provisional decision and made a number of comments which I'll summarise below.

Covea said:

- Though it didn't call Mr M the day after he called the out of hours number it tried to call him five days later. It was calling Mr M on the same number that he used when he called it in July 2016 and this shows it was calling the right number. Had he cooperated, Covea would've discussed all the relevant information with him.
- The storage yard called Mr M in December 2015, March, April and June 2016 but he didn't get in touch with Covea. He didn't make any attempt to mitigate his losses further to this.
- It's not the legal owner of the car so it couldn't start the claims process without Mr M's instructions. It never gave Mr M the impression that it was responsible for the car.
- It doesn't agree that it should've made further enquiries after receiving the February 2016 letter. This is because the letter didn't require it to take any action.

Mr M said:

- In November 2015 he told Covea he wanted to make a claim.
- His broker told him it would send an engineer to inspect the car and that it was likely to be scrapped.
- In July 2016 Covea told him it thought the broker had been dealing with the car.
- Covea said it tried to get in touch with him but my provisional decision said it called the wrong number.
- In his response to Covea's investigator he said he wanted Covea to get rid of the car but didn't want to make a claim in the sense that he didn't want the total loss payment because he thought, if Covea kept it, that this would keep his future insurance premiums down.
- He vaguely remembers talking to the storage yard in January 2016 about the fact that the car was still there. But as he had already told Covea about the accident he thought it was dealing with this.
- When he spoke to the storage yard in mid-2016 he asked if they'd been in touch with Covea but they said that wasn't their job. So he got in touch with Covea.

my findings

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 won't be changing any of the findings in made in my provisional decision.

As the parties will be aware this decision is about Covea's actions as Mr M's insurer. Mr M has referred to his broker's role in this complaint but as this decision is about Covea, I won't deal with what the broker did here.

I'd also like to clarify that in my provisional decision I didn't say Covea was trying to get in touch with Mr M on the wrong number. I said I'd listened to some voicemails Covea had sent me but there was no way of telling which number had been dialled. In any event both parties agree that Covea's investigator did manage to contact Mr M not long after the accident. So whether Covea had called the right number or not doesn't change any of my findings because it managed to establish contact with Mr M not long after.

Covea said Mr M didn't cooperate with its investigation because he didn't respond to its calls. As I said above, Mr M was contacted by Covea's investigator a few days after Covea's unsuccessful calls. From what I've seen Mr M completed an accident form and returned it to the investigator. So I don't agree with Covea that he didn't cooperate with it. And as Covea's out of hours operator told Mr M that Covea would get in touch to discuss, among other things, the car being in storage I think this is what should've happened when Covea's investigator got in touch with Mr M. I don't think the fact that, according to Covea, Mr M didn't respond to its calls should've prevented Covea from making enquiries about his car as well as about the third party claim.

Covea said the storage yard had tried to get in touch with Mr M before he said he wanted to make a claim in July 2016. It provided a screenshot showing the call times and dates which it said it got from the storage yard. Mr M hasn't denied receiving at least some of these calls. But he said he had already spoken to Covea on the day of the accident so he thought it was dealing with his car.

Mr M has shown that he reported the accident on the day it happened and he told Covea that his car was in storage and that he was worried about the storage fees. As I said in my provisional decision had Covea dealt with this in October/November 2015, the car would've been out of storage not long afterwards. So I don't think it can now rely on the fact that Mr M didn't tell it again about the storage charges in December 2015 or March, April and June 2016. That's because it was already aware the car was in storage in October 2015.

Also Mr M wrote to Covea and to his broker in February 2016. Covea said the letter didn't require it to take any action. But as I said in my provisional decision I think Covea failed to consider the letter properly. The letter said the car had been written off and had been in storage. From its notes Covea would've been able to tell that the accident happened a long time before, in October 2015. And it would've also known that it hadn't written the car off. And I think this should've led to it making further enquiries. But by its own admission Covea didn't do this and simply filed the letter.

Covea said it never gave Mr M the impression it was responsible for the car. But when Mr M reported the accident in October 2015, Covea's out of hours advisor told him not to worry about the storage and that Covea would call him the following day to go through next steps. Covea got in touch with Mr M, through its investigator, a few weeks later but it didn't deal with the storage charges.

Covea said Mr M had told it he didn't want to make a claim. Mr M had comprehensive insurance which means he is covered for his own vehicle damage should he wish to claim for it. And he told Covea he was concerned about his car's storage charges. As I said in my provisional decision it's Covea's responsibility to give Mr M reasonable guidance to help him

make a claim. This is so under ICOBS (Insurance: Conduct of Business) which is a sourcebook of rules and guidelines that applies to Covea when, among other things, effecting and carrying out contracts of insurance and activities connected with these. ICOBS 8 sets out the rules around claims handling and this includes a rule that an insurer must provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress. It should've been clear to Covea that even if Mr M had said he didn't want to make a claim, that he did in fact want it to deal with the storage charges.

In my provisional decision I said Covea should pay for storage charges up to 28 July 2016 which is when it told Mr M it wouldn't be paying any of the charges. I said I thought this should have alerted Mr M to the fact that there was a risk Covea wouldn't pay for any of the storage. I think at that stage it would've been reasonable for Mr M to get in touch with the storage yard to ask them to take the car out of storage to prevent further charges from accruing. Mr M said he didn't want the car back because of its low value so I also think he could've asked them to scrap it. This would've also stopped further charges from being incurred. But though Mr M was liaising with the storage yard I can't see that he made any enquiries with them on how to stop any further charges or any efforts to stop them. He told the storage yard he would chase his insurers but I think he should've also tried to think of ways to stop further charges while he was trying to resolve matters with his insurers; whether he thought the insurers were being reasonable or not.

The rest of my findings are the same as in my provisional decision so I won't repeat them here.

my final decision

For the reasons above, I'm upholding this complaint in part and requiring Covea Insurance plc to pay Mr M's storage charges from the date of the accident up to 28 July 2016, subject to the applicable policy excess. Covea Insurance plc may liaise with the storage facility directly in terms of the charges and the invoice and it must make clear to the storage facility that it is responsible for the charges between the date of the accident and 28 July 2016. This is so that the storage facility doesn't continue to chase Mr M for Covea Insurance plc's share of the bill/invoice.

Covea Insurance plc must also keep Mr M informed of any reduction it is able to negotiate to its part of the bill/invoice. This is so he can ensure that any reduction Covea Insurance plc agrees isn't added to his share of the bill.

I'm not aware of a policy limit that would apply in these circumstances. And from what I've seen the overall charges are currently around £30,000.

Covea Insurance plc must also pay Mr M £800 for the distress and inconvenience it caused him. It must pay this within 28 days of the date on which we tell it Mr M accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple*.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 13 December 2018.

Anastasia Serdari
ombudsman

* If Covea Insurance plc considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr M how much it's taken off. It should also give Mr M a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.