

The complaint

Mr H has complained about the way Aviva Insurance Limited dealt with claims he made for repairs under his car insurance policy.

What happened

In November 2022 Mr H's car was damaged in an incident with another vehicle. He was shunted from behind by a Heavy Goods Vehicle (HGV) while driving. He reported the incident to his insurer, Aviva.

In December 2022 he reported a separate incident. A third party had caused damage to a near side door of his car while it was parked.

Aviva arranged for Mr H's car to be inspected by an approved repairer (AR). In January 2023 Mr H discussed the repairs with the AR. The parties disagreed that damage to the gearbox and water ingress to the boot had been caused by the incident in November 2022. Unhappy with the outcome, Mr H said he didn't want the AR to carry out repairs unless all of the repairs he believed were incident related were completed. So Mr H took his car without repair to another garage.

Mr H says the AR initially agreed that water ingress damage to the boot was incident related. The AR denies this and says it didn't agree.

Mr H obtained a report from garage 'K' dated 17 January 2023. K was of the opinion that the damage to the gearbox and water ingress to the boot of the car was most likely caused by the incident in November 2022. K provided an estimate for repairs - excluding any inspection or repairs to the gearbox - for £3,685.17. The fee for providing the report was £150, which Aviva reimbursed Mr H for.

In January 2023 the AR told Aviva that they didn't find the report from K was conclusive and so suggested Mr H have the gearbox damage investigated by a dealership garage - and to provide a report if the dealership garage could confirm the gearbox damage was incident related. Aviva said Mr H should pay the costs of the investigation and report - but if the outcome was that the gearbox damage was incident related - Aviva would reimburse Mr H for these costs and include the repairs under the November 2022 claim.

Mr H was unhappy about having to pay for the inspection and report at the dealership garage. He thought Aviva should cover this as it was their suggestion. By this stage he had obtained and provided estimates from two independent garages. In addition to garage K report, Mr H provided three further estimates from garage "D".

Estimate A dated 23 January 2023 totalled £1,540.80 including VAT for blending to a rear off side door, repairs to a bumper and off side wing, and a new off side rear light.

Estimate B also dated 23 January 2023 totalled £1,278.00 including VAT for blending an outer off side wing, repairing an off side wing (listed separately) and repairing a rear off side door.

Estimate C is undated and totalled £1,876.80 including VAT. This didn't list repairs to a door. It listed repairs to a bumper and near side wing, a new near side rear light, a new boot seal, and a new tail pipe.

Mr H raised a complaint with Aviva. He was unhappy that he was put to the inconvenience of arranging for a dealership garage to inspect his car. He thought Aviva should arrange this and meet the costs of the investigation in advance.

Aviva said it wouldn't agree to meet the costs unless the dealership garage confirmed the disputed damage was incident related. But Aviva offered for an alternative AR to carry out repairs - and for an independent assessor (IA) to physically inspect Mr H's car to decide on the disputed repairs to the gearbox and for water ingress to the boot.

Mr H didn't agree and cancelled the IA's appointment. He had previous dealings with the IA and didn't agree they would be independent. Mr H believes he had provided Aviva with sufficient evidence to support his claim.

To resolve Mr H's complaint, Aviva offered a cash in lieu (cash) payment for the agreed incident related repairs for the November and December 2022 claims. It asked a senior engineer to review the claim from images of Mr H's car and didn't change its decision about the repairs.

Mr H said the cash offer was nowhere near the estimates he'd provided to repair his car. He wanted Aviva to meet the costs to repair his car including the water ingress damage and the gearbox. Mr H asked us to look at his complaint.

In April 2023 Mr H provided an estimate for repairs to the gear box from a third garage, garage "M". This report said Mr H had paid £450 for the removal of the gearbox and inspection for damage and grinding noise. The report provided an estimate for the repairs to the gearbox as a total of £1,000 including labour and parts.

Mr H said he had no choice but to pay for the repairs.

Our Investigator thought Aviva should pay compensation of £100, which she later recommended increasing to £300, for the poor service it provided. She said Aviva should have been clearer and done more to arrange for a dealership garage to inspect Mr H's car to report on the disputed damage. As Mr H had now arranged for the repairs to be completed, this prejudiced the dealership's position in reporting on whether the gearbox damage was incident related.

Aviva accepted the Investigator's initial recommendation of awarding compensation of £100. But it didn't agree to paying £300.

Mr H didn't agree and wants an ombudsman to decide. In summary he says that we and Aviva have unfairly dismissed three independent garage reports over Aviva's engineer's opinion - who carried out a desktop assessment and didn't physically inspect his car. He says garage K provided a breakdown of the estimated costs to repair his car (excluding gearbox damage). He says the AR agreed the water ingress damage was part of the claim initially.

Mr H says he doesn't want compensation - he wants Aviva to cover the costs to repair his car under the claims for the incident related damage which he has provided evidence to support.

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.

Mr H says it isn't fair that he has provided sufficient detailed evidence from three independent garages to support his claim for repairs which has been dismissed by Aviva and this service.

I've looked at the information Mr H has provided from garages K, D and M.

K's report says the following:

"The vehicle had sustained a collision by a HGV from the rear end causing damage to the rear bumper, inner bumper structure and rear drivers' side light unit, we noted the boot was slightly out of alignment due to the collision which was allowing moisture to enter the boot area and electrical components, possible rear panel damage was noted which would be visible once the bumper was removed."

"Upon our road test we noticed the clutch to be vibrating at the pedal and noisy under idle, we believe during the collision the vehicle was propelled forward by the HGV whilst in a forward gear which may have caused possible damage to the clutch thrust bearing and input shaft, this would be investigated during the repair works to the rear."

The estimate provided by K for repairs "to the rear of the car" excluding the gearbox is written as follows:

"Parts; (genuine manufacturer branded parts) £1,835.17 Labour (average City price); £1,500.00 Materials; £350.00 Total £3,685.17"

Aviva's AR said that the report was inconclusive as K didn't definitively find that the gearbox damage was caused by the incident.

I will comment on the findings of garage K later in my decision. However, I don't agree that the information provided by K as to the estimated costs for the remaining repairs is sufficient. The report doesn't itemise the parts damaged in the incident, which items require repair or replacement, the costs of each item, how many hours of labour and whether the amounts are inclusive or exclusive of VAT.

Looking at the estimates provided by garage D, there are inconsistencies and so it is impossible to identify or separate which estimate is the one to rely on. As an example, Mr H told Aviva that the estimate had increased to £1,876.80 (estimate C) as it included the water ingress damage. But estimates A and B included repairs to a door, which was excluded under estimate C, and estimate A and C included repairs to a rear side light, but B didn't. It seems the estimates partly overlapped the damage for the November and December 2002 claims. And, as with garage K report, there is no itemisation of the parts, or the hourly rate for labour. So as they stand, they aren't reliable evidence to support Mr H's claim for the costs to repair his car for incident related damage. I note that they vary when in comparison to garage K's estimate. And so I don't have enough to say that Aviva should pay the costs set out in the information Mr H provided from the garages to repair his car.

I understand Mr H says the AR initially agreed the water ingress damage was incident related. But I've seen no evidence of this agreement - and the AR denies it ever agreed this.

The AR advised Aviva on 21 February 2023 that the water damage was caused by a worn (failed) boot rubber. They said the damage to the rear of Mr H's car was minimal.

The AR provided Aviva with a detailed breakdown of the parts, costs, materials, labour and VAT for the incident related repairs it accepted for the November and December 2022 claims. These sums were lower than the estimates provided by Mr H.

I've thought carefully about the fact that Mr H went to the trouble of obtaining estimates from two garages in January 2023 for repairs to his car - and whether Aviva's request (via the AR) for Mr H to take his car to a dealership garage was fair.

I agree with Mr H that - from the information available - it was possible that the gearbox damage he claimed for was incident related. And I think the comments provided by garage K were reasonable - although in relation to the gearbox they have been made without the benefit of further investigation and possible dismantling. Mr H also told Aviva that the dealership garage said it wouldn't be able to categorically conclude the damage to the gearbox was caused by the incident. I can understand why Mr H had concerns about agreeing to this option - but Mr H did arrange an appointment which was later cancelled.

So - I don't think it was reasonable for Aviva to ask Mr H to obtain a report from a dealership garage. Both parties were well aware that the investigation costs into gearbox damage would be high by taking it to a dealership garage and I think it was unreasonable of Aviva to not offer more than it did here. All of the burden for bearing those costs - with no assurance that the outcome would mean Mr H would be reimbursed - was in my view an unfair offer. This might have been a reasonable option to Mr H after Aviva had arranged or offered for an IA.

I've noted the AR's comments that they put Mr H's car on a ramp and found no evidence of displacement under the car to indicate damage was caused to the gearbox by the incident.

It is apparent that due to the nature of the disputed repairs to the gearbox that any investigation here required extensive labour. But I think Aviva should have offered for an independent assessor (IA) to inspect Mr H's car on receipt of the report from garage K, given the comments in the report and the possibility that the gearbox and water ingress may have been incident related.

Where there is a dispute about repairs, we think it's a fair and reasonable approach for an insurer to instruct an IA.

To resolve things for Mr H, Aviva offered for an IA to physically inspect Mr H's car to decide if the disputed repairs were incident related. And it offered for a different AR to carry out the incident related repairs.

Mr H didn't agree to either of these options. While I understand Mr H has his reasons, it doesn't mean I can conclude that Aviva acted unreasonably here. And I can't agree with Mr H's criticism of Aviva for reaching its decision about the repairs by carrying out a desktop review by a senior engineer in an attempt to resolve the complaint. A physical inspection was offered.

The cash settlement offered by Aviva was based on the AR's commercial rates for carrying out the agreed repairs. I appreciate that Mr H is very unhappy with the amounts offered. But as I've said, the estimates provided by garages K and D cannot be relied on for the reasons I've given. And Aviva said it could have a different AR carry out the repairs instead. So an alternative to a cash settlement was available for Mr H.

So I think Aviva acted as fairly as it could in providing options to Mr H. But I think it should have offered for an IA to inspect Mr H's car before it suggested a dealership garage - and for Mr H to make the arrangements. It is up to Mr H if he wishes to accept the cash settlement for the repairs which excludes water ingress and gearbox repairs.

Garage M reported that the damage to the impact shaft bearing was most likely caused by the impact of being jerked forward while trying to change gear. M reported that the flywheel and clutch kit had been replaced recently (Mr H confirmed this had been done by a dealership garage in September 2021) and garage M found no other damage to the gearbox other than the usual wear and tear.

It's not clear from the report provided by Mr H dated 27 April 2023 from garage M if Mr H paid for repairs - or paid only for the investigation. The report suggests Mr H paid for the investigation. He told us he paid for the repairs too.

The report quotes repairs at £1,000. But - as I've found with the other garage information - the estimate is limited in detail (itemised for parts price, whether repaired or replaced, whether inclusive or exclusive of VAT, hourly rate for labour). The report provides a breakdown as follows:

"Repairs Estimate:

- Part gearbox rebuild*
- Replace damaged bearing*
- Re-fit gearbox*
- Gear box oil, bearing, sump plug & washer.*
- Total: £1,000.00 Labour and parts"*

Mr H didn't agree for an IA to inspect his car as he believed the outcome would be in Aviva's favour and repairs for the water ingress and gearbox wouldn't be met. I have no way of knowing what the outcome would have been as Mr H didn't agree with Aviva's options. I think Aviva should have done this sooner and I agree with the Investigator's recommendations to award compensation for the inconvenience Aviva caused here. But once Aviva did offer an IA and an alternative AR, I think this was fair.

I can't therefore conclude that Aviva should meet the costs of repairs which Mr H has arranged after rejecting the offer of an independent assessment. As the insurer dealing with the claim, Aviva acted reasonably in offering an independent inspection - and so I'm not asking it to pay any more under the claims than the cash settlement it has offered for the agreed repairs.

I think Aviva should compensate Mr H for the distress and inconvenience caused in its request for Mr H to take his car to a dealership garage. I think this caused avoidable delay and inconvenience. At this stage Mr H's car had been with an AR for two weeks, and he'd taken it to two other garages for estimates. He had understandable concerns about the costs of bringing his car to a dealership garage - but arranged an appointment while asking Aviva to meet the costs on his behalf. For this I think a fair award is £300.

I understand Mr H will be very unhappy with my decision - and I appreciate that he doesn't want compensation, but for Aviva to meet his claim in full for the costs provided in the estimates. But for the reasons I've given, I don't think Aviva needs to do this. I think Aviva's cash settlement is reasonable for the agreed incident related repairs.

My final decision

My final decision is that I uphold this complaint in part. I require Aviva Insurance Limited to do the following:

- Pay Mr H £300 compensation for the distress and inconvenience caused.
- Pay Mr H a cash settlement in line with the AR's sums for the November and December 2022 claims.

Aviva Insurance Limited must pay the compensation within 28 days of the date on which we tell it Mr H 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 a simple rate of 8% a year.

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

reject my decision before 4 August 2023.

Geraldine Newbold
Ombudsman