

## **The complaint**

Mr C was a self-employed tradesman. He needed a large van to transport himself and bulky materials to customers.

## **What happened**

The subject matter of the claim and the complaint is a large van, first registered in 2015.

Mr C bought the van in late September 2020 for about £12,000.00. It had a recorded mileage of about 122,000. Mr C insured it, through a broker, on a comprehensive policy for the year from 27 September 2020.

On 27 September 2021, the van passed an MOT test with a recorded mileage of about 135,000.

For the year from 27 September 2021, Mr C renewed the policy. The policy was branded with the name of an insurance policy administrator. New India was ultimately responsible for dealing with any claim.

Much of the complaint is about the acts and omissions of the administrator and its claims-handlers. Insofar as I hold New India responsible for such acts or omissions, my references to New India may include the administrator and its claims-handlers.

On about 21 August 2022, Mr C reported that someone had stolen the van containing work tools.

New India didn't provide any response to Mr C's claim or further emails.

New India's policy didn't cover the provision of a courtesy van.

On about 1 September 2022, the van's road tax expired.

Mr C hired a van from 19 to 23 September 2022 at a cost of £286.54.

Mr C wrote a letter to New India dated 25 September 2022, complaining about delay and lack of response. He said he was unable to work. Mr C's partner also sent a message to the administrator's Chief Executive Officer.

On about 26 September 2022, the insurance policy and the MOT expired.

On about 28 September 2022, New India received an independent engineer's report. It said the van had a recorded mileage of about 147,000. New India gave a pre-loss valuation for the van.

Mr C disputed that valuation. On 18 October 2022, his partner messaged the CEO again. She said that DVLA had fined Mr C £150.00 because he still owned the van.

On 20 October 2022, New India emailed a revised valuation including VAT. Mr C accepted that. New India made payment.

By a final response dated 21 November 2022, New India apologised for an initial delay when instructing the independent engineers and a second delay when forwarding Mr C's dispute to the engineers. New India offered Mr C £100.00. Mr C responded on 23 November 2022 asking for more compensation and claiming loss of earnings for the period from 1 September 2022 to 20 October 2022.

Having received no response, Mr C brought his complaint to us in mid-January 2023. He asked us to direct New India to compensate him for loss of earnings.

#### *our investigator's opinion*

Our investigator recommended that the complaint should be upheld. She thought that New India had accepted there were two periods of delays, the first from 2 September 2022 to 27 September 2022 and the second from 29 September 2022 to 19 October 2022. She said that because of the delays caused by New India, Mr C incurred a loss of earnings. Mr C had provided evidence of what he earned for the equivalent period in 2021.

The investigator recommended that New India should pay Mr C the following:

loss of earnings	
21 days @ £240.00	£5,040.00
van hire costs	£ 286.54
compensation for not responding to Mr C	£ 100.00
total	£5,426.54

#### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mr C and to New India on 28 June 2023. I summarise my findings:

I wasn't minded to hold New India responsible for unreasonable delay. For that reason, I wasn't minded to find it fair and reasonable to direct New India to pay Mr C compensation for loss of use of a van.

In any event, Mr C hadn't told New India- but later told us- that he'd hired a van for a week in September 2022. I considered that this showed that he could, and did, work after 1 September and before 20 October 2022. I considered that Mr C had fallen short of showing bank statements or other details of his actual earnings from work in September and October 2022.

New India was responsible for sustained failure properly to communicate with Mr C. The impact of that on him - at an already difficult time - included worry that New India wasn't going to pay his claim at all.

Subject to any further information from Mr C or from New India, my provisional decision was that I upheld this complaint in part. I intended to direct The New India Assurance Company Limited to pay Mr C (insofar as it hasn't already paid him) £250.00 for distress and inconvenience.

Mr C disagreed with the provisional decision. He says, in summary, that:

- Lack of communication fell below the agreed service level. This caused delay in the process of paying the claim, ultimately resulting in loss of earnings.
- At the very least, New India should cover the £500.00 excess that he had to pay.

New India acknowledged receipt of the provisional 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.

The theft of the van and the need to make a claim were, in my view, inevitably going to cause Mr C distress and inconvenience. Also he had lost tools for his work.

New India's final response included the following:

*"[The administrator] instructed ...the independent engineers on 27/09/2022 to compile the engineers report. The valuation offer in line with the engineers report was emailed to you on 28/09/2022. However, you emailed [the administrator] on 29/09/2022, advising you were disputing this offer. The information you provided for the dispute process was not emailed to [the engineer] until 19/10/2022.*

*...*

*I apologise for the initial delay caused when instructing [the engineers] and the second delay caused when forwarding your dispute to the independent engineers"*

Mr C and New India treated the initial delay as having started on 1 September 2022, when he sent it evidence of his purchase of the van. However, I don't agree that New India had to instruct its engineer that day. I would've found it reasonable for New India to instruct an engineer within a few days after 1 September 2022. I consider that 27 September 2022 was beyond a reasonable time.

I would've found it reasonable for the engineer and New India each to have taken a few days to deal with the report. However, the engineer reported very promptly. Based on that report, New India emailed its valuation to Mr C on 28 September 2022. So I consider that New India made up for lost time to some extent.

The final response said that Mr C sent an email on 29 September 2022 to dispute the valuation. But I haven't seen any such email. Rather, New India's system notes record the receipt on 17 October 2022 of a "*General Mail letter form PH*". So I accept New India's recent statement that Mr C responded to the offer by post. I accept New India's statement that it didn't receive his response until 17 October 2022.

New India emailed that response to the engineer and the engineer again responded promptly. So New India emailed its offer including VAT on 20 October 2022.

I've found that New India didn't receive Mr C's response until 17 October 2022. So - notwithstanding the apology in the final response – I don't hold New India responsible for delay in the period from 28 September 2022 to 20 October 2022.

In any event, New India had responded to the claim from about 21 August 2022 by making a valuation that Mr C accepted within about two months. I have seen theft claims take much longer than that.

Overall, I don't hold New India responsible for unreasonable delay. For that reason, I don't find it fair and reasonable to direct New India to pay Mr C compensation for loss of use of a van.

In any event, Mr C hadn't told New India - but later told us- that he'd hired a van for a week in September 2022. I consider that this shows that he could, and did, work after 1 September and before 20 October 2022. I consider that Mr C has fallen short of showing bank statements or other details of his actual earnings from work in September and October 2022.

Nevertheless, I've seen that New India was responsible for sustained failure properly to communicate with Mr C. The impact of that on him - at an already difficult time - included worry that New India wasn't going to pay his claim at all.

#### Mr C's response to the provisional decision

As I've said, I don't hold New India responsible for unreasonable delay. In any event, Mr C hasn't taken the opportunity to provide further evidence of his loss of earnings in September and October 2022. So I'm not persuaded that he suffered a loss of earnings or that New India caused such a loss. I don't find it fair and reasonable to direct New India to pay compensation in relation to loss of earnings.

The policy documents said that there was a compulsory excess of £250.00 and a voluntary excess of £250.00. So in the event of a theft, Mr C would have an uninsured loss of £500.00.

I've assessed compensation for distress and inconvenience in line with our guidelines and by reference to its impact on Mr C - notwithstanding that this doesn't equate to the amount of the excess.

#### **Putting things right**

I conclude that £250.00 is fair and reasonable compensation for distress and inconvenience.

#### **My final decision**

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct The New India Assurance Company Limited to pay Mr C (insofar as it hasn't already paid him) £250.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 August 2023.

Christopher Gilbert

**Ombudsman**