

The complaint

Mr A has complained about his motor insurer AA Underwriting Insurance Company Limited because following an accident and a claim to it in May 2021, his car wasn't repaired.

What happened

Mr A's car was damaged in May 2021 and in July 2021 he complained and contacted us because work hadn't progressed. AA assured Mr A that repairs had been authorised and, indeed, it thought they'd been completed. As they hadn't, Mr A complained again and AA issued a final response on 1 September 2021. My colleague then considered Mr A's complaint and issued a final decision about what had happened up to the date of AA's 1 September 2021 final response.

But Mr A's car was still not fixed and on 4 September 2021 he told AA that he'd soon be facing additional transport costs for using his car in a congestion zone. He said he'd been intending to sell the car before the charges came into effect in October 2021 – but he couldn't sell it due to the unrepaired damage.

The matter continued to be unresolved and in February 2022 AA noted its garage had been having some issues with arranging a courtesy car. AA emailed Mr A stating it would arrange a hire car for him and the garage would contact him again soon regarding getting the repair booked. Mr A didn't hear from the garage until 30 March 2022. AA issued a final response that day which accepted the claim had been delayed to that point because it had failed to manage the claim proactively. AA made no reference to Mr A's reported financial losses and offered no compensation.

Our Investigator felt that AA had failed Mr A. She said it should pay £750 compensation and reimburse any proven congestion charges to the point AA had contacted Mr A in February 2022. She also said it should arrange for the car to be repaired.

AA said it felt £750 was too much compensation. It didn't object to the recommendation for congestion charges to be paid and said it was still keen to repair the car.

Mr A said £750 was not enough compensation and he didn't think we'd taken account of the fact that AA had breached its policy obligations to repair the car. He said he wanted £5,000 compensation for that breach. He also advised that in July 2022 he'd had to sell the car for scrap, so it could no longer be repaired.

The complaint was passed to me for an Ombudsman's decision. I felt a provisional decision was needed. My provisional findings were:

"I intend to maintain the compensation award suggested by our Investigator. But I think the award regarding congestion charges needs extending to 30 March 2022, with interest also being applied. I'm aware that the delayed repair issue continued after that time and Mr A has ended up selling the car but I can't take that into account as part of this complaint, where I can only look at activity up to 30 March 2022. But because the car has now been sold, I won't be maintaining the recommendation made by our Investigator for the car to be fixed."

In fact, given the further activity post March 2022, which I can't consider here, I won't make any finding in this decision about what needs to be done in respect of resolving the repair claim for Mr A's car – including what AA should do as a result of it not having been repaired in the period up to and after 30 March 2022. I will focus here on Mr A's losses – financial and non-financial – caused by AA's failure to repair the car in the period 2 September 2021 – 30 March 2022 inclusive.

To be clear, I can't change or go behind the decision issued by my colleague about what happened up to 1 September 2021. But the fact of delays to that point is very relevant to the situation I am considering here. In short, at the point my consideration begins, AA knew that repairs had not been done and that Mr A was already very frustrated about the fact they were still outstanding. And as of 4 September 2021 AA also knew that Mr A was facing additional financial costs as a result of its delays. The fact of that financial impact naturally caused Mr A more worry and stress on top of that caused by the delayed repairs. And that was the position Mr A started with at the beginning of the period I am considering.

Importantly, for me, AA then did nothing meaningful to progress the situation and alleviate any of Mr A's ongoing frustration, stress or worry. Not even in February 2022 when it said it could look at arranging a hire car. It seems it called Mr A and left a message, and then sent an email. But the content appears to have been that it was still being put back to the garage to contact Mr A to arrange repairs. The only difference was AA would then arrange a hire car. AA noted in its final response of 30 March 2022 that it should have been more proactive – and I think that is correct. It should have been. It should have managed the claim rather than let it sit in abeyance for so long. AA failed Mr A and he suffered distress and inconvenience as a result. I think £750 is fair and reasonable compensation in the circumstances.

I also take Mr A's word for it that congestion charges were suffered during this time. I don't think AA's contact in February 2022 was enough to forestall its liability for this cost. As I noted above it should have done more to progress things. If Mr A presents proof of the costs he incurred for driving in the congestion zone between 26 October 2021 and 30 March 2022 (inclusive), AA should reimburse them. And add interest to each charge from the date Mr A paid it until settlement is made.*

I know Mr A is looking for payment of £5,000 as damages for AA breaching its contract with him. To be clear, I think AA did fail Mr A in this situation. But the remedy I find to be fair and reasonable for that is £750 compensation and reimbursement of the congestion charges, plus interest. I note Mr A is aware of an example from our website of a situation where more compensation would be awarded than I've found reasonable here. But I think the circumstances of that example are quite different to those experienced by Mr A. They relate to non-financial loss caused in the circumstances of a home insurance claim where the policyholder had to live away from home for an extended period with their property repairs taking around a year. Here I am looking at a seven month period of upset and whilst Mr A had significant worry and upset during that time, he was still able to use the car as before – whereas, in the example, the delays meant the everyday life of the policyholder was severally changed and impacted from what they should have been experiencing. In the circumstances here, I'm satisfied that £750 compensation for non-financial loss, is fair and reasonable.

I know Mr A no longer has his car. And I know the claim for the damage the car suffered in 2021 is still outstanding. I also know Mr A was still unhappy with AA's conduct as things progressed after 30 March 2022. So Mr A and AA now need to discuss the concerns Mr A has about the claims progress post 30 March 2022 and work out what can be done to resolve things, including the outstanding claim. If Mr A is unhappy with AA's response, he can make a further complaint."

AA said it agreed with the outcome. Mr A raised some concerns. He said the car was sold in June 2022, not July as I had stated. He felt his costs should be awarded to the date of sale, rather than only to the end of March 2022. Mr A said he wanted to better understand the £750 compensation award and that he was unsure what the term “non-financial loss” meant.

Our Investigator pointed Mr A to our website for more detail about our compensation awards. And confirmed that in my provisional decision I had explained that £750 was being awarded for the distress Mr A had been caused by AA’s failure. Mr A made no further objections to my provisional findings.

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.

I appreciate Mr A’s clarification that the car was sold in June. But the detail he provided previously gave a date of 6 July 2022. In any event – I am not considering the sale of the vehicle, as that activity occurred after the end of the period I am considering, marked by AA’s final response letter dated 30 March 2022.

I was aware when making my provisional decision that Mr A continued to incur congestion charges after 30 March 2022. But I was also aware that the claim continued in that period too. Whilst I have been able to consider what happened up until the 30 March, which has enabled me to conclude AA failed Mr A at that time, I have not looked at what happened after that. So I simply don’t know if AA continued to fail Mr A. It may have done. And it may be that it should fairly be meeting further congestion charges. But that is not for me to say, conclude or direct here in a complaint where I can only take into account what happened up until 30 March 2022.

As I explained provisionally, I considered the upset and inconvenience Mr A suffered during the seven-month period of delay which I am taking into account here. My award is made in light of our guidance on compensation and is in line with other awards made by this service in similar circumstances. It takes into account that Mr A was still able to use his car, albeit in its damaged state, and that he suffered worry and frustration throughout that period. I remain of the view that my suggested compensation of £750 is fair and reasonable in the circumstances.

Putting things right

I require AA to:

- Pay Mr A £750 compensation for distress and inconvenience.
- Upon sight of proof of costs incurred, reimburse Mr A’s outlay for using his damaged car in the congestion zone between 26 October 2021 to 30 March 2022. To each cost Mr A paid, add interest*, from the date of payment until settlement is made.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs requires AA to take off tax from this interest. If asked, it must give Mr A a certificate showing how much tax it’s taken off.

My final decision

I uphold this complaint. I require AA Underwriting Insurance Company Limited to provide the redress set out above at “Putting things right”.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr A to accept or reject my decision before 13 December 2022.

Fiona Robinson
Ombudsman