

## The complaint

Ms P complains about how her insurer, Liverpool Victoria Insurance Company Limited (LV) dealt with a claim under the local breakdown cover as part of her motor insurance policy.

References to LV in this decision include their agents.

Ms P was supported by a representative in making her complaint to this Service. References to Ms P include her representative.

## What happened

Ms P had a motor insurance policy with LV that included optional local breakdown cover. In June 2023 a transmission warning light came on when Ms P was returning home from work and the vehicle wouldn't move. Ms P contacted LV, who asked a recovery agent (B) to recover Ms P's vehicle to her home, as there were no garages open at the time. B then arranged for the vehicle to be recovered by a second recovery agent (S) to a garage (ST) for it to be repaired.

However, when Ms P went to ST to collect her vehicle, she found damage that wasn't present before the recovery. The damage was to the front bumper. ST said the vehicle was delivered to them in that condition, so Ms P thought the damage must have been caused by one of the recovery agents.

Ms P complained to LV, sending photographs of her vehicle and the damage she said had occurred. LV said S hadn't provided any photographs of the vehicle before and after the recovery or responded. LV said it was taking longer than expected for them to consider the case (the complaint) and told Ms P that as they hadn't responded to Ms P within the eight week period businesses have to consider consumer complaints, she had the right to refer her complaint to this Service.

Ms P then complained to this Service. She was upset about the damage she said had been caused. She was also unhappy at a lack of progress and LV not providing her with proactive updates on what was happening.

Our investigator upheld the complaint. Given the lack of updates and progress, he thought LV should pay Ms P £150 in compensation for distress and inconvenience. LV hadn't provided any evidence to refute Ms P's claim the damage to her vehicle was caused by one of the recovery agents. The investigator also thought LV should either agree to and pay for repair of the damage or organise and complete the repairs (on receipt of suitable evidence). LV accepted the investigator's view about the £150 compensation but didn't agree with paying to repair the damage to the bumper. S hadn't accepted liability, providing pictures of the vehicle when recovered and a condition report that didn't show any damage when they collected the vehicle. Nor did the recovery vehicle have any feature that would have caused the damage, when winching the vehicle onto the recovery vehicle and then offloading the vehicle from the recovery vehicle at the garage to which it was recovered.

LV thought the damage looked like it was the result of being pushed into an object – when the vehicle was offloaded at the garage, it had to be manually pushed from the road into the garage given the restricted access due to vehicles parked in the road. There was no object on the recovery vehicle that would have caused the damage. Given the need to offload the vehicle and have it pushed from the road into the garage, S hadn't been able to take photographs of the vehicle when it was offloaded. LV also noted the recovery condition report had been signed by the garage receiving the vehicle to indicate there was no additional damage (other than as indicated on the report, scuffed wheels). LV concluded that the vehicle wasn't damaged when collected from Ms P, nor by their recovery agent (S), so it would have been damaged by the garage.

### **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.

My role here is to decide whether LV have acted fairly towards Ms P.

The key issue in Ms P's complaint is the damage she says happened to her vehicle in the time between it being collected by LV's recovery agents (B and S) and her collecting it from the garage that carried out the repairs (ST). Ms P maintains the damage was caused by LV's recovery agents. LV dispute this, saying the evidence indicates the damage happened while at ST and that the nature of the recovery (by S to ST) and the recovery vehicle and the way the vehicle was loaded onto and off the recovery vehicle meant the damage wasn't caused by S. Rather, they say the nature of the damage makes it likely it happened while the vehicle was with ST.

Looking at the sequence of events and the representations, evidence and information provided by Ms P and by LV (including their recovery agents) there isn't any dispute the vehicle was damaged at the point Ms P went to collect it from ST. I've also seen no evidence the damage was present when the vehicle broke down, not when it was recovered by B to Ms P's home. Not have Ms P or LV sought to challenge or dispute either scenario.

So, as no-one is suggesting the damage was pre-existing at the time of the vehicle breakdown or when recovered by B – but it was present when Ms P went to collect it from ST – then the damage was either caused by S or by ST. So, the decision I have to reach is whether, given the evidence and information available and on the balance of probabilities, which I think is the more likely of the two possibilities.

LV have provided photographs of Ms P's vehicle at the time it was collected by S from Ms P's home. One is of the front of the vehicle, and clearly shows no damage at that point. LV have also provided a copy of the recovery report from S, which includes a condition report and associated customer acceptance statements and signed acceptance. This is from Ms P, including a signature. The same report also includes a 'Delivery Condition Report' which states the customer accepted delivery in the same condition as recovery. In this case the 'customer' is that receiving the vehicle, which is ST. There's a name, but no signature. LV say the recovery report supports their view the vehicle was undamaged when collected from Ms P's home and when it was delivered to ST (along with their other points, which I'll come onto).

However, Ms P has challenged the accuracy of the recovery report. Specifically, she wasn't at home when her vehicle was collected by S, so couldn't have been the customer in the 'Customer Acceptance' section of the report, not have signed it. Ms P says another family member was present – but says the vehicle was collected earlier than the Customer Acceptance section indicates, and they didn't sign the report. Ms P has provided persuasive

evidence to support these points. LV haven't provided a persuasive explanation for these inconsistencies. ST say they signed no recovery report.

I've also noted the recovery report was only provided by LV (in response to our investigator's view) some six months after Ms P first raised her concerns with LV about damage to her vehicle. Similarly S wasn't interviewed until that time. I've not seen an explanation why neither was obtained or conducted much sooner than they appear to have been.

Given this, I'm not persuaded the Recovery Report is accurate nor can it be relied on.

LV say the circumstances of the recovery of the vehicle to ST meant S weren't able to take a photograph of the vehicle at the point at which it was delivered to ST (they point to the narrow access to ST and parked vehicles meaning S's recovery vehicle was causing an obstruction in the road running past ST. While this may have been the case, it also means LV can't evidence the vehicle being undamaged at the point of delivery to ST.

ST maintain the vehicle was delivered to them in that condition (with the damage). And they didn't sign any recovery report (the report isn't signed).

LV also say the nature of the way the vehicle was loaded onto and off the recovery vehicle, and the nature of the recovery vehicle, mean the damage wouldn't have been caused by any of these factors. But in the absence of a clear, contemporaneous photograph of the vehicle immediately after it was loaded of the recovery vehicle, this can't be conclusively evidenced.

Taking all these points into account, on the balance of probabilities and the evidence and information available, I'm more persuaded the damage was caused while the vehicle was with LV's recovery agent (S).

Having reached this conclusion, I've considered what LV need to do to put things right. As I think the damage was caused by S, then they should either agree to pay for the cost of repairs or arrange for them to be carried out. Ms P has provided a quote from a garage for repair of the damage (£1,437.20) so LV, if they choose to settle the claim through the first option, should consider agreeing to pay for the cost of the repair based on the estimate. Otherwise, they can arrange for the damage to be repaired by one of their approved network of providers.

I've also considered the distress and inconvenience caused to Ms P from what's happened in this case, including the time taken to reach this position. As I've noted above, LV only provided the Recovery Report and other evidence and information some six months after the incident, for reasons that aren't immediately obvious, when these things should have been available at the time of the incident.

Considering all the circumstances of the case, I think £150 for distress and inconvenience would be fair and reasonable.

### **My final decision**

For the reasons set out above, I uphold Ms P's complaint. I require Liverpool Victoria Insurance Company Limited to:

- Either agree to pay for the cost of repairs to the damage to Ms P's vehicle or arrange for them to be carried out. As Ms P has provided a quote from a garage for repair of the damage (£1,437.20) then LV, if they choose to settle the claim through the first option, should consider agreeing to pay for the cost of the repair based on the estimate. Otherwise, they can arrange for the damage to be repaired by one of their approved network of providers.

- Pay Ms P £150 in compensation for distress and inconvenience.

Liverpool Victoria Insurance Company Limited must pay the compensation within 28 days of the date on which we tell them Ms P accepts my final decision. If they pay later than this they 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 Ms P to accept or reject my decision before 1 April 2024.

Paul King  
**Ombudsman**