

The complaint

Mr L had motor insurance with Aviva Insurance Limited (Aviva). He complains about how Aviva dealt with things when he had a car accident.

What happened

Mr L was driving his car when the car in front stopped and he collided with it. Mr L rang Aviva and told them what had happened. He said the other car stopped suddenly and unexpectedly and he hit it. But he said the accident wasn't his fault because the other driver stopped with no warning and for no reason, and may have done so deliberately. Mr L also raised concerns about the other driver being under the influence of drugs, and possibly having no licence or insurance. Mr L said the other driver told him the car was not his, but belonged to a family member. Mr L gave Aviva the other driver's first name and phone number, and the registration number of the car. He later said he could also give Aviva the phone number of the family member who owned the car.

The third party insurer claimed against Mr L's policy and Aviva decided to settle the claim. Mr L wasn't happy with this as he didn't think the accident was his fault, so he complained to Aviva.

Aviva believed it had made the right decision to settle the third party claim. However, Aviva accepted that it should've told Mr L early on that it didn't have enough information to prove fraudulent activity, and set his expectations better that this would be a claim on his policy. Aviva also said it should've kept Mr L better informed and told him when the claim was settled. Aviva offered Mr L £200 compensation.

Mr L wasn't happy with Aviva's response, so he complained to this service. Our investigator didn't think Aviva had reached its liability decision unreasonably, and so didn't ask it to do anything more.

Mr L wasn't happy with the investigator's response, and so his complaint has been passed to me. Mr L says Aviva failed to properly investigate what happened, and should've made sure the third party claim was genuine. He says his insurance premiums and no claims discount have been severely affected as a result. Mr L wants Aviva to record the claim as "non fault", reinstate his no claims discount and reimburse him for the increase in his premiums.

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 don't uphold Mr L's complaint. I'll explain why.

It isn't my role to establish who was at fault in the collision. That is better settled by a court. My role is to decide whether Aviva acted fairly and reasonably and in accordance with Mr L's policy.

Mr L's insurance policy says -

“GENERAL CONDITIONS THAT APPLY TO THE WHOLE POLICY

...Our rights

If we want to, we can take over and conduct in the name of the person claiming under the policy the defence or settlement of any claim or take proceedings for our own benefit to recover any payment we have made under this policy.

We shall have full discretion in the conduct of any proceedings or the settlement of any claim.”

Aviva did contact its fraud advisor, but Mr L could only give very limited information about the other driver, which the fraud advisor said wasn't enough to carry out an investigation. Aviva said it was unlikely the other driver had stopped deliberately to create a claim, as in its experience these types of “cash for crash” claims usually include a claim for personal injury, which the other driver hadn't done. Any issue of whether the other driver was under the influence of drugs would've been a matter for the police at the time.

The third party insurer settled the third party claim before trying to claim back the amount paid from Aviva. It is usual in cases like this for the other insurer to make all the necessary checks before doing so, or it risked not being reimbursed by Aviva. I think it was reasonable of Aviva to accept that the other insurer had carried out the necessary checks. There's no advantage for Aviva in paying out on a claim that might not be genuine.

There were no other witnesses to the collision or anything like CCTV or dashcam footage. So Aviva said it couldn't prove the other driver stopped for no reason. Mr L accepts that he hit the car in front when it stopped. Aviva said he should have left a safe braking distance.

Under the terms of Mr L's policy, Aviva was entitled to deal with the third party claim as it thought best. I think it was fair and reasonable for Aviva to have settled the claim as it did, taking into account all the available evidence. Aviva offered Mr L £200 compensation for the way his claim was handled. I think this was fair and reasonable. So I won't be asking Aviva to do anything more.

My final decision

My final decision is that I don't uphold Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 28 September 2021.

Sarah Baalham
Ombudsman