

The complaint

Mrs D complains about how Aviva Insurance Limited (Aviva) damaged her car and handled a claim under her motor insurance policy. References to Aviva include its suppliers.

What happened

The details of the incident in question are well known to all parties involved and I won't repeat them all here but will mention the main points.

Mrs D notified Aviva of an incident in May 2021 when she was involved in a collision with a third-party vehicle. Mrs D says she was left at the roadside for four hours in the rain while she waited for Aviva's recovery truck.

Mrs D says her car was recovered to a storage compound for written-off cars as Aviva considered it to have been beyond economical repair. She says this was a mistake, as the vehicle mileage had been input incorrectly by Aviva's claims handler. When the error was later discovered, Aviva agreed to repair the car and Mrs D asked for it to be repaired by her preferred repairer.

Mrs D's car was left in the storage compound for 12 days in total and Mrs D was able to tell through her car's app that it wasn't locked during that period. She had left some personal belongings in the car during this time which were then found to have been stolen from it.

Whilst her car was in the storage compound, Mrs D says some additional damage was caused to the left-hand side bodywork and also to the wheels.

Aviva moved the car to Mrs D's choice of repairer. It didn't tell her that, by using her own repairer, it would apply an additional excess of £200 to her claim. Aviva realised it hadn't told her, so it waived this additional excess.

Aviva decided Mrs D was at fault for the collision without consulting Mrs D further or asking for footage from her dashcam which Mrs D says provides evidence that the third party was at fault.

Aviva settled Mrs D's claim and paid an additional £1,891.94 for the bodywork damage to the left-hand side of the car while it was in storage. Aviva provided a report about the condition of the wheels and said it believed the damage was pre-existing, so it wouldn't pay towards their repair. Aviva also paid £108.94 for the belongings that were stolen.

Mrs D was provided with a courtesy car by Aviva which it says she wasn't entitled to under the cover she'd bought. Aviva says it paid for this courtesy car for about 27 days in total.

Mrs D complained to Aviva about its service. Aviva said that it had made errors in its claims process. It apologised to Mrs D and paid her £200 in compensation for her inconvenience.

Mrs D remained unhappy with Aviva's response and brought her complaint to this service. She wants Aviva to reverse its finding that the accident was her fault. She also wants Aviva to pay for all of the damage caused to her car whilst it was in storage and pay her more than

£200 for her distress and inconvenience.

Our investigator said that he didn't think Aviva had acted fairly. He said that Aviva had made several errors and the claim had taken too long to settle, so he said Mrs D should receive increased compensation. Aviva didn't agree it should pay extra compensation so the complaint has been passed to me to make a final decision.

I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

Liability for the collision

It's important that I say here that it's not the role of this service to apportion blame or fault for an incident like the collision involving Mrs D. Aviva, like other insurers, will apply the terms and conditions of its policy when dealing with claims and it's my role to decide if Aviva have treated her fairly and reasonably.

In Mrs D's policy wording it says:

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.

This type of policy term is commonly found in car insurance policies and it lets Aviva handle claims at its discretion. This is most often done with a view to stopping a claim being made in court to save time and money and sometimes it means that Aviva makes a decision its customer doesn't agree with.

Having looked at the information supplied by both Mrs D and Aviva I can understand why Aviva chose to exercise its rights under the policy to control the claim and admit liability. I also understand that Mrs D finds this frustrating and emphasises her good driving record, but I am satisfied that Aviva had the ability to take this action under the terms of the policy and have done so fairly and reasonably.

Courtesy car

Although Mrs D didn't mention the provision of a courtesy car in her initial complaint, I can see that the subject has been raised since then and has formed part of our investigator's view, and Aviva have responded to it, so I will also deal with it as part of my decision.

Under Mrs D's policy I can see that she would be entitled to a "standard courtesy car" which is further explained as a "Small three-door hatchback vehicle with an engine size of 1 litre".

This courtesy car would be supplied when the car is being repaired by one of Aviva's approved repairers:

- 1. "If your vehicle is being repaired by an approved repairer; a courtesy vehicle will be provided for the duration of the repairs."*

Cover under the policy goes on to say:

- 2. "If your vehicle cannot be repaired or is stolen, a courtesy vehicle will be provided for up to 14 days, or until you receive your settlement."*

Under Aviva's policy, it's possible to upgrade the courtesy car to a similar type/size as the insured car, but Mrs D hadn't bought this level of cover. Mrs D complained that she hadn't been supplied a car like her's, but she wasn't entitled to this cover under the option that she bought, so I'm unable to agree that this was unfair of Aviva.

Initially, Mrs D's car was deemed beyond economical repair by Aviva because it had made a mistake with its mileage. Under the terms of her policy, Aviva supplied Mrs D with the courtesy car mentioned in point 2 above. When Aviva realised it'd made a mistake and the car could be repaired, it was entitled to ask for the courtesy car to be returned.

If Mrs D had asked for Aviva to have her car repaired by one of its approved repairers then she would have been entitled to the courtesy car mentioned in point 1 above. But Mrs D wanted her car to be repaired by her own repairer, so Aviva didn't have to provide her with a courtesy car under either point 1 or point 2. But Aviva let Mrs D keep the courtesy car until her car was repaired, so it paid for 27 days hire in total despite there being no cover under the policy.

Mrs D also complains that she wasn't given a courtesy car for the first six days of her claim. Aviva realised it didn't send the request to its supplier properly and only did so when Mrs D chased it up about five days after the original incident. At this stage of the claim, Mrs D's car was still deemed as being beyond economical repair so she should already have had the courtesy car mentioned in point 2. It's clear to me that Aviva didn't supply the car when it should have done due to its error.

Additional damage

I can see from the evidence I have that Aviva sent an engineer out to inspect Mrs D's car with a specific task to identify damage that was caused to it while it was being transported by Aviva or in its storage compound. Aviva agreed that the bodywork damage was done whilst the car was in its care and paid for its repair by Mrs D's repairer.

Mrs D has said that Aviva damaged her car's wheels while it was in its care and she's sent pictures to this service of the wheels before the car was taken away. I'm not able to say definitively whether the wheels show any pre-incident damage so on balance I must give greater weight to the engineer's report about their condition. It follows that I think Aviva have reasonably shown that the damage wasn't caused while the car was in their care and I'm not going to ask it to pay more.

Aviva have also paid for Mrs D's belongings that were stolen from her car whilst it was in its care.

Summary

It's clear to me that Mrs D has found the whole experience very stressful. From the accident itself and then through the claims process she has provided a very clear version of the events. Aviva has made several mistakes that must have been confusing to deal with and it's my role to establish whether Aviva treated Mrs D fairly through her claim.

In order to do this it's important that I look at all aspects of Mrs D's claim. I can see initially that she was provided with poor service at the roadside, keeping her waiting in the rain for four hours. Then her car was taken to the wrong place because of Aviva's error, and then further damaged and items taken from it. Aviva made an error by not applying a higher excess to the claim, which it then waived. And the courtesy car wasn't supplied until Mrs D chased it up, again because of Aviva's mistake.

To balance this, Aviva have apologised for its errors and paid Mrs D for the damage caused, the items stolen and for a courtesy car she wasn't entitled to under her policy. It also waived the additional excess of £200 and offered Mrs D compensation of £200 for her inconvenience.

I think Aviva's actions in paying for the damage it caused are fair and reasonable, as is its decision to not apply the additional excess of £200. But I think Aviva went further in supplying Mrs D with a courtesy car for nearly a month when her policy didn't include that cover. Mrs D has explained that she is reliant on having a car so I think Aviva's choice to provide one for her is a significant factor in my consideration.

Our approach at this service is usually to award £10 per day when a consumer is without a vehicle. If I take that approach and apply it in reverse, because Mrs D was in receipt of a courtesy car that her policy didn't entitle her to, I can estimate that Aviva paid a figure of around £270 to Mrs D's benefit.

Responses to my provisional decision

Aviva responded to my provisional decision and said it didn't have anything to add. Mrs D didn't agree with it. She told this service that she hadn't had the hire car for the period that Aviva said she did and had returned it to the hire company when Aviva first asked her to, on the seventh day of hire.

In further correspondence with this service, Aviva provided proof it'd paid for the extra 20 days car hire from its supplier. But Mrs D maintained that she had returned the car to the supplier when it was first requested.

Mrs D visited the branch in an effort to secure some evidence of the date she gave the car back, but because of the way this hire car was arranged, there wasn't any documentary proof of when the car was actually returned to the hire car company's branch.

From the evidence I have, I can see that Aviva paid for a hire car for the disputed 20 day period. It's somewhat harder for Mrs D to prove that she actually didn't have the car to use during the same period.

Mrs D has very commendably sent me extensive anecdotal details of her movements during that time and I am persuaded by her evidence that the car was returned to Aviva's supplier when first requested.

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 think Aviva's actions in taking control of the claim and admitting liability, paying for the damage it caused to Mrs D's car, and paying for Mrs D's stolen items are fair and reasonable, as is its decision to waive the additional excess of £200.

Aviva has provided evidence that it paid for the hire car to be provided to Mrs D for a total of 27 days during June 2021 and I have no doubt that it paid for this.

But Mrs D's evidence is extensive and persuasive. She has visited the branch of the hire company and spoken with the manager. He confirmed that no car was being hired out to her for the disputed hire period. Mrs D has provided extensive anecdotal evidence of her movements during June 2021 when she says she didn't have access to a car, and her

evidence is logical, detailed and supports her point of view.

So I cannot agree that Mrs D actually had the benefit of the hire car for those extra 20 days.

It seems clear to me that Mrs D's inconvenience has been significant throughout her claim, so I think it's fair to follow the logic in my provisional decision above and require Aviva to pay Mrs D an additional £200 for her distress and inconvenience, made up of £10 per day for the disputed 20 day hire period.

My final decision

For the reasons set out above, my final decision is that I uphold this complaint. I direct Aviva Insurance Limited to pay Mrs D a total of £400 for her distress and inconvenience.

I understand Aviva has already paid Mrs D £200, so this amount can be deducted.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 4 August 2022.

Richard Sowden
Ombudsman