

The complaint

Mr and Mrs C complain that Aviva Insurance Limited mishandled a claim on a motor insurance policy.

Where I refer to Aviva, I refer to the above-named insurance company and I include claims-handlers and others insofar as I hold Aviva responsible for their acts or omissions.

What happened

For the year from early October 2019, Mr C had two cars insured on a comprehensive multi-car policy with Aviva. He was the policyholder. The policy also covered Mrs C as a named driver.

On 24 January 2020, Mr C was driving one of the cars when it came into contact with the car in front, belonging to a third party.

Mr C told Aviva that there had been no damage to the third party's car.

However, on 17 February 2020, Aviva paid the third party's claim.

Mr C complained to Aviva later in 2020. On about 24 November 2020, Mr C and Aviva had a telephone conversation that led to its final response later that day.

Aviva apologised for poor service and distress and inconvenience caused to Mr C. Aviva said it had offered and Mr C had accepted £250.00 in full and final settlement of his complaint and it had sent a cheque. Its final response included the following:

"We discussed the next steps in regard to the claim, although we have requested further information we cannot guarantee that this will change the outcome of your claim. The claims team will be in touch in due course to advise you of their findings."

Mr C brought his complaint to us in late April 2021. He asked us to direct Aviva to nullify the claim and reinstate his no-claims discount ("NCD").

Our investigator recommended that the complaint should be upheld in part. He didn't think that Aviva had done anything wrong by accepting liability, treating the claim as at fault and adversely affecting the NCD.

The investigator thought that Aviva was responsible for failure to seek further information and respond and clarify the status of Mr C's NCD. He recommended that Aviva should pay Mr C - on top of the £250.00 that had already been paid - £75.00 compensation for the distress and inconvenience caused by such failure.

Aviva agreed with the investigator's opinion.

Mr and Mrs C disagreed. They asked for an ombudsman to review the complaint. Mr C says, in summary that:

- Pictures taken on the day of the incident and on the morning after clearly show that there was no damage at all to the third party's car.
- The third party's wrongful claim has adversely affected his NCD. His premiums have increased substantially a few hundred pounds more every year.
- Aviva should reinstate his NCD.
- £75.00 does not cover any of this in a meaningful way.

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.

Most motor insurance policies contain a term allowing the insurer to decide how to deal with a claim by a third party. Aviva's policy terms included the following:

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

The effect of that term was that – on a question of how to deal with a third party's claim – Aviva's view would prevail over Mr C's. But I will consider whether Aviva applied that term fairly.

Aviva didn't get the third party's engineer's report, or otherwise check the claimed damage to the third party's car before settling the claim. And the photographs don't show any damage. Also, Aviva didn't update Mr C.

However, I have to consider what should've happened if Aviva had checked. And Aviva has shown us the third party engineer report dated early February 2020. It says that there was light accidental damage to the rear of the third party's car and that a new rear bumper and fastening clip were required.

As not all damage shows up on photographs, I find the engineer's report more persuasive than the photographs.

So – although Aviva didn't follow a correct process – it reached an outcome that was within its rights under the policy term quoted above and that I don't find unfair. Whilst I find it likely that there is an ongoing effect on Mr C's premiums - I don't find it fair and reasonable to direct Aviva to change the way it has recorded the third party's claim or to reinstate Mr C's NCD.

Aviva – through its claims team - failed to get in touch as it said it would 1 November 2020. The consequences of that unfolded after the final response.

I think that Aviva prolonged Mr C's hope that it might change its decision about the claim. So the failure to get in touch made it more upsetting for Mr C when Aviva, the investigator and I have not found it fair and reasonable to remove the fault claim or to reinstate his NCD.

Putting things right

£75.00 isn't compensation for the effect of the claim on Mr C's premiums. But – keeping in mind the payment of £250.00 - I find that an additional £75.00 is fair and reasonable compensation for the distress and inconvenience caused by the shortcomings I've found from Aviva.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Aviva Insurance Limited to pay Mr C – in addition to the £250.00 already paid – a further £75.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 27 November 2022.

Christopher Gilbert

Ombudsman