

The complaint

Mr G has complained about the length of time it has taken Aviva Insurance Limited to settle a claim under his car insurance policy. He's unhappy with the lack of updates and the impact the open claim has had on his premium at subsequent renewal dates.

What happened

Mr G was involved in an incident with another vehicle in 2019. Aviva on Mr G's behalf instructed solicitors to act as liability was in dispute. The third party involved intended to proceed to court to settle the claim. However, in June 2021 the third party withdrew their claim just before proceedings were set to begin. So Aviva said it would look to recover its costs from the third party - and it seems the third party had told Aviva's representatives it agreed to do this.

In October 2021 Mr G complained to Aviva. He said the circumstances of the claim were incorrectly recorded on a central database - and because the claim was still open Mr G was paying more than he should have for his car insurance at subsequent renewal dates. He said he felt that he was doing all of the work to progress the settlement of the claim and received conflicting information from Aviva and its solicitors as to what stage the claim was at.

In November 2021 Aviva said it was awaiting the recovery of the outlay of the costs of the claim from the third party Insurer (TPI).

Mr G asked us to look at his complaint. In June 2022 our Investigator recommended Aviva do the following:

- Update the central database to show the claim as a non fault claim and allow Mr G's No Claims Bonus (NCB)
- Provide a refund for the additional premium Mr G has paid for insurance since the renewal date in 2020 for an open fault claim.
- Pay Mr G £150 compensation for the distress and inconvenience Aviva caused him.

Aviva agreed to update the central database and to pay Mr G £150 compensation. But it explained that Mr G's policy with it lapsed in November 2019 - and so it couldn't provide a refund of premiums. This would be something Mr G's current insurer would need to deal with once the central database was updated.

The Investigator passed on the information Aviva provided to Mr G. In response, Mr G said he would accept the following in order to resolve his complaint:

- confirmation that Aviva has closed the claim and updated the Central Underwriting Exchange (CUE) database to show the claim as non-fault.
- Update CUE to show the claim described as the third party hitting his vehicle in the rear and not the other way around.
- Provide him with a letter confirming Aviva has carried out the changes for Mr G to show to his current insurer.

- Confirmation from this service of actions we are taking to make sure Aviva don't do this to other individuals.

Our Investigator misunderstood Mr G's response and thought he'd asked for his complaint not to continue. So she closed his complaint.

There was further back and forth between all parties. Aviva was waiting for Mr G's acceptance of the Investigator's view. Mr G was unhappy that he hadn't received compensation from Aviva as recommended in the Investigator's view. So he asked for an ombudsman's decision.

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 can understand Mr G's frustration as he has been paying a higher premium for his car insurance due to there being an open claim. However, when liability is in dispute these claims can take much longer to settle. As it seems the third party intended to proceed to court proceedings up until June 2021, I haven't seen anything to say Aviva is responsible for the claim not closing before then. And it would still take some time after the third party's decision to withdraw to obtain Aviva's costs from them - as this is down to the third party to provide. But it's also for Aviva to show that it actively chased the third party for recovery of its costs.

It's standard practice in the industry for an open claim to be treated as a fault claim until such time as it has been closed. If the claim is closed as a non-fault claim, it's for the current insurer to provide a suitable backdated refund - in this case - to the date Mr G bought a policy with it.

Aviva has provided limited information as to what happened with Mr G's claim following the withdrawal by the third party the day before proceedings were to begin in court in June 2021.

From the information available it isn't clear that Aviva provided Mr G with reasonable updates or that his claim was reviewed regularly with a view to settlement.

I asked the Investigator to find out from Aviva if the claim was still open - given the time that had passed.

In November 2022 Aviva explained that it hadn't properly followed the process to recover the claim costs from the third party since June 2021. So it said it would close the claim on CUE as a non-fault claim, allow Mr G's NCB and update the claim costs to zero - as it now had no realistic prospects of recovering the claim costs from the third party.

As the Investigator explained, it isn't our role to punish a business, but to decide on the individual merits of each complaint. So I cannot require Aviva to do things differently to protect other customers.

But I agree with Mr G that his remaining requests to resolve his complaint are reasonable. I think from the information available that Aviva hasn't shown it did enough to progress Mr G's claim to a prompt settlement since June 2021 - and so I think it caused unnecessary delay here. So I think Aviva should pay Mr G £150 compensation for the distress and inconvenience caused for the delay and poor service it provided. And I think it's reasonable for Aviva to provide Mr G with a letter confirming the changes it has made to CUE for him to show to his current insurer.

If Mr G is unhappy with the way his current insurer deals with the premium he's paid in light of the changes to CUE on Aviva's closure of the claim, he can raise a separate complaint against them.

My final decision

My final decision is that I uphold this complaint. I require Aviva Insurance Limited to do the following:

- Provide Mr G with a letter confirming the circumstances of the 2019 claim has been correctly recorded, as a non-fault claim, his NCB has been allowed, and with no claim costs as advised in its email to us dated 3 November 2022.
- Pay Mr G £150 compensation for the distress and inconvenience caused.

Aviva Insurance Limited must pay the compensation within 28 days of the date on which we tell it Mr G accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 14 December 2022.

Geraldine Newbold
Ombudsman