

The complaint

Mr A says Aviva Insurance Limited gave him misleading advice about uninsured expenses after he made a claim on his motor insurance policy.

What happened

After a non-fault accident, Mr A's car had to be assessed to determine whether it was a total loss. A hire car wasn't available immediately. One of Aviva's advisors said if Mr A needed to use taxis, he should keep the receipts, as he'd be able to recover his expenditure. When he sent the receipts (totalling £229) to Aviva, it said he should contact the other insurer directly. But that insurer said Aviva would have to put the claim to it. Aviva then said as Mr A's policy didn't have legal cover, he'd need to appoint a solicitor to pursue the matter. Mr A said he wouldn't have used taxis had he thought there'd be a problem recovering the cost.

One of our investigators reviewed Mr A's complaint. He said as Mr A's policy didn't include hire, Aviva didn't have to cover transport costs arising before Mr A got hire from the other insurer. He also said that as Mr A's policy didn't include legal cover, Aviva was right to say he'd have to pay a solicitor to pursue the cost of the taxis. The investigator said there was no evidence that Aviva had said it would reimburse Mr A or pursue the other insurer for him. He thought it was reasonable that Aviva had told Mr A how to pursue the matter himself.

Following Mr A's objections, the investigator asked Aviva to provide call recordings. Aviva said there was only one call - and after hearing the recording, the investigator didn't change his view. He still thought there was no evidence that Aviva told Mr A it would reimburse taxi fares. He said he assumed what the advisor had *meant* to get across in the call was that he'd be able to recover the cost of taxis from the other insurer, through his own solicitor. The investigator thought Mr A may have misunderstood what was said, but in his opinion, there was nothing to show that Aviva had given him inaccurate information.

Mr A asked why the onus was on him to interpret what the advisor meant. He said she should have made the situation clear. As there was no agreement, the complaint was passed to me for review. I issued a provisional opinion - upholding Mr A's complaint - along the following lines.

I said the suggestion about using taxis came from Aviva and Mr A's first receipt for a taxi was dated the day after the conversation in which it arose. So I thought he was influenced by Aviva in that respect. I noted that Mr A had told us he only needed transport for the school-run, that initially he'd relied on other parents to assist him and that had he known he'd have trouble recovering the cost of taxis, he'd never have used them. Instead he'd have continued to rely on other parents for the short time he was without a hire car. I thought that sounded plausible and that there was no reason to doubt what Mr A had said.

I thought it was relevant to consider the whole of the conversation Mr A had with the advisor. Initially, he asked about whether the policy excess (an uninsured loss) was still payable by him if the other insurer accepted liability for the accident. The advisor said it was payable and asked Mr A whether he had legal cover. As he said he didn't, she said he'd have to

pursue the other insurer directly for a refund. Mr A asked how to do that. The advisor then said as Aviva would be in contact with the other insurer, it would ask that insurer to issue the refund to Aviva - and it would then be passed on to Mr A. She said it would be easier if Aviva did it, as Mr A would save on solicitors' costs.

I noted that Mr A had never made a claim before and wasn't aware of the usual process. He didn't realise that the excess was an uninsured loss, as the advisor didn't use those words. As far as Mr A was concerned, the excess was going to be refunded by the other insurer, not by Aviva, but Aviva was happy to assist him in getting the refund. In these circumstances, I thought it was reasonable for Mr A to assume that what the advisor had said reflected how the system usually works in cases like his.

I said the advisor should have made it clear later in the conversation, when the cost of taxis (another uninsured loss) was discussed, that Aviva wouldn't be covering that expense - nor would it be helping him to recover it from the other insurer. But all she said about the issue was that he should keep the receipts, as he could recover the cost of transport. As the advisor didn't say that Mr A would have to contact the other insurer directly, I thought it was reasonable for him to assume he wouldn't have to do that, especially given what she'd said only a few minutes earlier about the recovery of the policy excess.

I thought it was more likely than not that had the advisor told Mr A he'd have to contact the other insurer directly, he would have asked her how - just as he did when he was told initially that he'd have to do that to get a refund of the excess. Presumably, the advisor would then have said that as he didn't have legal cover with the policy, he'd have to pay a solicitor. I didn't think Mr A would have run up taxi expenses had he known that he'd have to pay to recover them, as the cost of that might well have exceeded the cost of the taxis.

I accepted that as the cost of taxis is an uninsured loss, Aviva wouldn't normally be involved with it - and that it had no obligation to liaise with the other insurer about uninsured losses. But I said I had to consider what was fair and reasonable in this particular case. I didn't think it was for Mr A to try to interpret the unclear advice given to him by the advisor. As she told him that if he used taxis, the cost would be refunded (and didn't explain what he'd have to do to get the refund) I said I thought Aviva should have assisted him when he did that, and the other insurer wouldn't deal with him directly.

I concluded that - based on what I'd seen so far - it would be fair and reasonable for Aviva to refund the cost of Mr A's taxis, based on the receipts he'd provided. I also thought it should pay him £100 compensation for distress and inconvenience, as he'd been worried about not recovering the taxi fares and inconvenienced by having to go back and forth between Aviva and the other insurer.

I asked the parties to comment on my provisional findings. Both Mr A and Aviva accepted them without further comment.

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.

As neither party made any comment on my provisional findings, there's no reason to depart from them. So, for the reasons set out above, I'm upholding Mr A's complaint.

My final decision

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

following:

- refund the money Mr A spent on taxis to him
- pay Mr A £100 compensation for distress and inconvenience

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 28 December 2022.

Susan Ewins

Ombudsman