

The complaint

Mr P complains that Aviva Insurance Limited is responsible for a mistake in connection with his motor insurance policy.

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

What happened

The subject matter of the complaint is a car which Mr P has said he acquired as an ex-demonstrator in 2009. I will refer to it as “the car”. Mr P has said that he also had other cars including a similar car which I will refer to as “the similar car”.

In 2014, Mr P had the car insured on a policy with Aviva. He made a claim for damaged glass. Aviva incorrectly told MIB (Motor insurers Bureau) that the car was a write-off in what was then category D. So MIB put an incorrect flag or marker to that effect on MIAFTR (Motor Insurers Anti-Fraud and Theft Register).

In the summer of 2022, Mr P tried to sell the car. On about 12 July 2022, he found out that Aviva was responsible for the write-off marker. When he contacted Aviva, it said it would correct the information within a day.

On 13 July 2022, Mr P complained that Aviva hadn’t corrected the information within a day. He complained to Aviva that its mistake had restricted his ability to shop around for insurance and to sell the car.

By a final response dated the same day, Aviva accepted that it had incorrectly said it would take one day to correct the information. Aviva apologised and offered Mr P £150.00. Mr P brought his complaint to us without delay.

On 22 July 2022, we asked Aviva for its file. By a further final response dated 28 July 2022, Aviva increased its offer to £500.00.

Our investigator thought that Aviva’s offer was fair and treated Mr P fairly.

Mr P disagreed with the investigator’s opinion. He asked for an ombudsman to review the complaint. He says, in summary, that:

- Aviva should’ve found its error.
- Some other insurers will treat the flag differently to Aviva.
- Some cheaper insurers declined to quote.
- Some other insurers would’ve offered different premiums.
- He had to stay with Aviva.
- He was able to insure the similar car for a lower premium elsewhere.

- In recent years, he was able to find insurers willing to quote and be cheaper than Aviva, so he switched from Aviva to other providers.
- He could not sell the car when he wanted to and needed the money. He missed the summer car- buying slot and would need to sell it at a reduced price.
- During the investigation Aviva incorrectly said he was insured with them for years when he was not.

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.

The Financial Ombudsman Service deals with an individual consumer's complaint about one or more acts or omissions in regulated activities by a regulated financial firm. Where we uphold a complaint about unfair acts or omissions, we look at the actual impact on that consumer. That impact may include financial loss and non-financial loss such as distress and inconvenience.

We assess compensation at a level intended to put right that impact. We don't assess compensation at a level intended to punish or deter unfair acts or omissions.

We accept that different insurers will assess and price risk in different ways at different times. We can't say that a lower premium is fairer than a higher one.

If – instead of paying to repair the car in 2014 - Aviva had paid Mr P the market value of the car before the damage, then I would've expected Aviva to have told Mr P that it was writing-off the car as a total loss. But he had only made a claim relating to glass.

Aviva made a bad mistake by telling MIB that the car was in category D. But that was a mistake at the end of Aviva's handling of the claim. So I wouldn't expect Aviva to have told Mr P that it was writing off the car as a total loss. And I wouldn't expect Aviva to review what it had told MIB or to uncover the mistake.

Mr P's recollection is that some of Aviva's competitors declined to quote for insurance for the car. He now believes that this was due to the mistaken record that the car had been a write-off. He has provided some general information about insurance of cars in category D or the new category N.

But in my view the evidence shows that different insurers will assess and price risk relating to such cars in different ways at different times. Mr P hasn't shown that Aviva was the only or cheapest provider of insurance for such cars.

Aviva's final response dated late July 2022 included the following:

"...now that the data has been corrected, you should be able to contact the relevant insurer(s) and request confirmation of whether this has affected your insurance premiums historically. Upon provision of the correct data and proof that this was incorrect (which this letter confirms), you should be able to request that this data is updated and that any incorrect premium is rectified and any refund provided where appropriate as the premium would have been based on incorrect data."

Mr P replied the same day including the following:

“I am sure you will understand the inconvenience and impracticality of this as it spans eight years for which I also doubt that I hold records for in their entirety”

Aviva gave Mr P contradictory information about when he had the car insured with Aviva, in particular for the year from June 2019. After he challenged the information, Aviva said that it had insured the car from July 2012 to June 2019. Mr P hasn't shown any evidence that this was incorrect.

Further, Mr P hasn't shown us any evidence of what he paid to insure the car or the similar car in any of the years since 2014 – not even the recent years from June 2019, June 2020, June 2021 or June 2022 when he wasn't with Aviva.

Mr P hasn't explained why he didn't sell the car after the marker was removed in mid-July 2022. So I don't accept that Aviva caused him to miss the opportunity to sell it in the summer of 2022.

Taking all this into account, I consider that Mr P has fallen short of showing that Aviva's mistake caused him a financial loss. So I don't find it fair and reasonable to direct Aviva to pay compensation for financial loss.

Nevertheless, I accept that Aviva's mistake caused Mr P some wasted time in contacting MIB and Aviva. I also accept that he was troubled by the thought that Aviva had unfairly cost him money – and by the thought that DVLA might've pursued him for not telling it about the marker.

Putting things right

Overall, I'm satisfied that Aviva's offer of £500.00 is more than fair and reasonable compensation for such distress and inconvenience. As that offer was in a final response, I find it fair and reasonable to direct Aviva to pay Mr P £500.00 for distress and inconvenience.

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 P £500.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 3 February 2023.

Christopher Gilbert

Ombudsman