

The complaint

Mr and Mrs G have complained about their motor insurer Aviva Insurance Limited as they believe it gave them an inferior courtesy car when their car was damaged in an accident and was being repaired.

What happened

Mr and Mrs G arranged cover with Aviva in 2019. They recalled taking extra cover to get a 'like-for-like' courtesy car in the event their car was damaged and in need of repair.

In October 2021 their car did need repair under the policy. Aviva arranged for a small 3-door car for Mr and Mrs G to use, the type which comes as standard on its policy. That was then amended and a 5-door car was provided. Mr and Mrs G were unhappy as this still was not like their 2-litre SUV type vehicle. Aviva said this was in-line with what was offered under the policy and that it had never told Mr and Mrs G that, with extra cover, they'd be entitled to a like-for-like car.

Aviva though did accept there had been some service failings. It offered £100 compensation. It also answered a concern Mr and Mrs G had raised about the engine size of the 5-door car they'd been loaned. They said it was smaller than that provided on the policy – just over a litre as opposed to 1.6l. They believed a larger engine size would have meant a larger car. Aviva noted its policy did state a car with a 1.6l engine would be provided. It said this was an oversight in updating the policy with current engine sizes, where new technology means manufacturers can offer the same power output for a reduced sized engine. Mr and Mrs G remained unhappy and complained to the Financial Ombudsman Service.

Our Investigator considered call notes and listened to conversations Mr and Mrs G had with Aviva, and couldn't find a discussion about the extra courtesy car cover. He didn't think Aviva had misled them. Nor did he think the engine size listed in the policy was material to the outcome of the complaint – a 1.6l engine wouldn't necessarily mean a larger car, and the issue at the heart of the matter for Mr and Mrs G had always been that they wanted a courtesy car like the car they had and they weren't entitled to that on the policy. For the service issues accepted by Aviva – the standard car initially being provided and some difficulty for Mr G in speaking to its operatives – our Investigator felt £100 compensation was fair and reasonable. So he wasn't minded to make it do anything more.

Mr and Mrs G were unhappy. They said they had been told by Aviva that the extra cover would entitle them to a like-for-like courtesy car. They maintained that a 1.6l engine car would have been bigger and the smaller car (albeit 5-door) they'd been loaned was uncomfortable to drive, causing leg pain. They said Aviva had downgraded the car available to them because the accident had been their fault. Mr and Mrs G said if they have to follow what the policy documents say, then so should Aviva. Their complaint was passed to me for an Ombudsman's consideration.

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 appreciate that Mr and Mrs G feel let down by Aviva. But, having considered everything I'm not persuaded that it's treated them unfairly or unreasonably.

I don't doubt Mr and Mrs G believe they were told the extra cover was on a like-for-like basis. But there is no evidence to support their belief which shows they came to that view because of something Aviva told them. It's not reflected in any of the calls Aviva has found (the dates and times of which our Investigator has shared with Mr and Mrs G). And it's not what the policy documents say – copies of which Mr and Mrs G were sent when the policy was arranged, and which they had a chance to check.

Mr and Mrs G are correct. They should always try and comply with the policy wording. But this service deals with matters on a fair and reasonable basis. As such there are times when we won't allow an insurer to rely on a technical breach of the policy wording to decline a claim. Mr and Mrs G have identified, and Aviva has accepted, that here there was a technical breach (by Aviva) of the policy wording. So I've considered whether that means Aviva should compensate Mr and Mrs G.

The extra cover detailed in the policy does not say that a "like-for-like" courtesy car will be given. Rather: "Five-door vehicle with an engine size of 1.6 litres with room to seat five people". As I understand it Aviva provided a five-door car to Mr and Mrs G which had room to seat five people. The engine of that car was not 1.6l. Aviva has explained that the policy is out of date in this respect because engine sizes have changed. Clearly Mr and Mrs G could not have known that. But I can't reasonably require Aviva to provide compensation for this error because Mr and Mrs G weren't misled by this policy wording. I say that because they thought the cover was like-for-like, so they did not rely on the correct policy wording, only to suffer a loss of expectation when a car with a smaller sized engine to that detailed in the policy was provided. Had Aviva provided a 5-door car, with space for five people, which had a 1.6l engine, Mr and Mrs G still would not have had a car 'like' their 2l SUV.

Whilst Mr and Mrs G have said a car with a 1.6l engine would have been bigger, I'm not persuaded that is necessarily the case. There are some 'sporty' versions of five-door/five seater cars, similar in size to that loaned to Mr and Mrs G, which have 1.6l engines. But nor have I seen any evidence that the size of the car has caused Mr and Mrs G discomfort/pain whilst being driven or due to driving. I'm mindful that all cars are different, in terms of comfort and driving position. The only sure way to experience no difficulty or difference is to have a car like the one chosen, brought and insured. Unfortunately, Mr and Mr G did not have cover that would afford that to them.

There is nothing that makes me think Aviva 'down-graded' the cover because this was a 'fault' accident. I think what Mr and Mrs G may be getting confused with is a situation where, in a non-fault accident, a policyholder is placed in a like-for-like car because the cost for that can be claimed from the other insurer/driver as a loss against their policy. It is not something Mr and Mrs G's policy entitles them to, so Aviva has not 'down-graded' them in the instance of this fault accident to something less than their extra cover policy entitled them to.

I understand that the initial incorrect arrangement for provision of the standard courtesy car was resolved the same day. Although not without Mr and Mrs G having to make several calls. I note their complaint about the courtesy car was not logged as such initially – and Aviva has accepted that was a failing on its part, causing Mr and Mrs G the need to contact it further. However, I also note that Aviva first issued a final response to this complaint in November 2021. Taking everything into account, I'm satisfied that the £100 compensation offered by Aviva is fair and reasonable. I know Aviva has asked for Mr and Mrs G's bank

details so it can pay this sum – if Mr and Mrs G want to receive that payment, they should provide their bank details to it.

My final decision

For the reasons set out above, I'm not asking Aviva Insurance Limited to provide any further redress.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G and Mr G to accept or reject my decision before 15 August 2023.

Fiona Robinson
Ombudsman