

The complaint

Mr M complains about the service provided by Aviva Insurance Limited when handling his motor insurance claim.

What happened

The background to this complaint is well known to Mr M and Aviva. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Mr M's car suffered vandalism damage and he made a claim on his motor insurance policy. Aviva accepted the claim and repairs were arranged.

Mr M later complained to Aviva about the repairs. In particular, the car's rims not being repaired and a previous ceramic paint coating not being replaced. As Mr M remained dissatisfied, he referred his complaint to our Service for an independent review.

Our Investigator considered the complaint but she didn't recommend that it be upheld. As Mr M remained unhappy, the complaint has been referred to me for a final 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.

Our Service is an alternative, informal dispute resolution service. Although I may not address every point raised as part of this complaint - I have considered them. This isn't intended as a discourtesy to either party – it simply reflects the informal nature of our Service.

I note Mr M has requested to speak to the deciding Ombudsman. I don't find that is necessary given the wealth of evidence and responses already on file - as well as the thorough investigation that's already taken place. By concentrating on considering the evidence provided by both parties and not directly speaking to either the respondent or complainant, it generally allows our Ombudsmen to preserve their impartiality and help more customers overall.

My decision will address the two complaint points referenced above and I note than an additional complaint point not addressed by the final response letter was referred to our Service. This was in relation to the service provided, specifically the Equality Act and accessibility. In the interests of pragmatism and because Aviva have had the opportunity to respond on this point, I've kept it in mind when reaching my decision.

Mr M has another complaint with our Service in relation to other issues around this claim. I won't comment on those issues in this decision.

The wheel rims

Mr M has said that the damage being claimed for wasn't caused by wear and tear, but by the act of vandalism. He's told us the police have referred to the vandals having steel toe boots and presumably kicking the rims. Aviva on the other hand, say that the damage to the rims was likely caused by scraping from contact with kerbs.

Having reviewed photographs of the damage, on the balance of probabilities and in the absence of other sufficiently persuasive supporting evidence from Mr M, I find that Aviva have fairly considered this area of damage in line with the policy terms before declining to repair it.

The ceramic paint/coating

Mr M is unhappy that a previous paint finish he had applied to the car after policy inception hasn't been restored. Aviva say that they do not insure ceramic coatings. Generally, this will be because an insurer perceives that the paint 'modification' makes a car more attractive to thieves as there's an element of customisation above and beyond the factory specification.

Mr M further says he had contacted Aviva in 2019 to let them know and he'd been told it wouldn't be treated as a 'modification'. Aviva say they've no record of any such contact and as the coating wasn't applied as part of the repairs - so they'd treated the car as no longer having it. In the absence of any other supporting evidence of Mr M having contacted Aviva, I've considered (for the purposes of my decision) that Aviva only became aware of the paint modification at the time of repair.

Had Aviva been fully aware of the coating they've said they'd not have continued to insure the risk. But on the other hand, Mr M now has a car that doesn't have the benefit of the additional ceramic paint that he paid extra for.

Our Service's normal approach to this type of scenario would be to consider the relevant law, which is usually the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). Without going into detail, we'd generally look at whether Mr M took reasonable care not to make a qualifying misrepresentation either when renewing his insurance contract following the ceramic paint application or when the risk changed (following the paint application) and what steps Aviva could take as a result. Some policies will require disclosure of information that changes the risk to the insurer at the point of the risk changing (mid-term) and other policies when renewal comes around. But in the specifics of this complaint I wouldn't seek to apply the principles of CIDRA or interfere with what Aviva have done. I say this because:

- Whilst I can see how Mr M would feel aggrieved, he has benefited under this policy (through this claim).
- Had Aviva chosen to cancel or avoid the insurance policy (when the ceramic paint came to light) I find it likely that Mr M would arguably be in a worse position now because the claim may not have needed to have been settled and he'd have to declare any cancellation or avoidance to future insurers - and would almost certainly have higher premiums.
- I've kept in mind that he has had the damaged paint work areas repaired under this claim.

On balance, I don't find that Aviva have treated Mr M unfairly, unreasonably or that Mr M has lost out in relation to this point - and I won't seek to interfere with their actions

Access to Aviva's services

Mr M says that Aviva have discriminated against him based on his disabilities. But it's not my role, or the role of this Service to decide whether Aviva acted unlawfully or not breached the relevant legislation (including the Equality Act 2010). That would be a matter for the Courts.

My role is to decide what's fair and reasonable in the circumstances of this complaint. But when reaching that finding, I have taken a number of things into account - including relevant law and what we consider to have been good industry practice at the time. So, although it's for the Courts to say whether or not Aviva breached the Equality Act 2010 (or other relevant legislation), I'm required to take the Equality Act 2010 into account - if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

I've considered what Mr M has told us about his accessibility requirements alongside what Aviva have told us about the customer journey here when taking out a policy. I'm satisfied that the relevant website makes it clear that this particular brand of Aviva's is online only. The relevant home page states:

"Our self-service insurance means you manage your policy online. You can even make a claim online and get back to normal quickly. You can also do things like view and download your documents and make changes to your policy.

Being online means we'll send your policy information via email or SMS. If you get stuck or have a question just email us and one of our friendly experts will help you."

I'm also satisfied the website makes it sufficiently clear what their service offering is and their accessibility section of the website includes contact details where a customer has been unable to find a solution based on the information provided. Aviva have made a commercial decision to make this brand of their business online only, likely resulting in cost savings which can be passed on to customers. That's not something our Service can interfere with.

My overall decision outcome will disappoint Mr M but it brings to an end our Service's involvement in trying to informally resolve this part of his dispute with Aviva.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 January 2024.

Daniel O'Shea
Ombudsman