

The complaint

Mr F has complained that Aviva Insurance Limited unfairly cancelled his motor insurance policy.

What happened

In October 2022, Mr F took out an Aviva motor insurance policy. It required him to have a telematics box fitted to his car to monitor how it was driven. This recorded aspects of his driving behaviour under the categories of smooth driving, speed, time of day and fatigue. The data collected was used to produce an overall driving score out of 100.

In June 2023, Aviva cancelled Mr F's policy with notice because of low journey scores. Mr F complained about Aviva's decision to cancel the policy and its decision to retain the payment he'd made for increased policy mileage in May 2023.

Aviva issued a complaint response in July 2023. It said it had cancelled the policy in line with the policy terms, because Mr F had registered a score of below 50 on at least three separate journeys in May 2023. Aviva accepted that Mr F had previously scored below 50 with the policy remaining in force, but this didn't change its subsequent decision to cancel the policy. Aviva also said it wouldn't be able to refund the payment it had taken for the increased mileage, as there was an ongoing claim, and the terms say there wouldn't be a refund of the premiums in these circumstances.

Mr F was unhappy with Aviva's response. He said he'd not been contacted each time he'd scored under 50 and Aviva had therefore breached the terms. He said he relied on the SMS and emails from Aviva to know how his driving was and he didn't use the app. He said he received three messages very close together to warn him the driving score was inadequate and was therefore not given a chance to adjust. He also questioned the reliability of the telematics box data and said Aviva had unfairly cancelled his policy leaving him having to pay higher premiums if he wanted to continue insuring his car.

Our Investigator upheld the complaint in part. He thought Aviva had acted fairly in cancelling the policy with notice. He thought Aviva had warned Mr F of the consequences of speeding and therefore satisfied its obligation to notify Mr F and advise him on how to improve his driving and score.

But our Investigator did recommend that Aviva issue a pro-rata refund, with interest, of the £182.04 Mr F paid in May 2023, for the additional mileage.

Aviva accepted the Investigator's recommendation. Mr F disagreed with the Investigator. He said Aviva's contact wasn't sufficient to be considered serious official warnings. He said the wording was not definitive, so he took it as advice, rather than a warning. He also said he was only warned about speed when speed was rarely an issue. If he'd been warned of other aspects like harsh braking and accelerating, he'd have amended his driving, improved his scores and the policy wouldn't have been cancelled. Mr F again pointed out that he wasn't warned each time a journey score was under 50 and this was against the policy terms. He still felt he was given inadequate time to improve his driving and that he received no advice

on how to improve his score within 30 days of when he received contact. Because of the overall lack of warnings, Mr F said he felt his driving was adequate enough. And because he didn't use the app, he intended to rely mainly on the SMS contact from Aviva.

Because the complaint wasn't resolved, it has been passed to me to decide.

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.

Aviva cancelled the policy because it said Mr F scored below 50 on journeys in three different days during a 30-day period. I've reviewed the data Aviva has relied on and I'm satisfied that the telematics box did record an overall score below 50 for at least three journeys in May 2023 over three different days.

But, because Mr F has raised concerns about the reliability of the telematics box, I've considered this to begin with.

Reliability of telematics box

Mr F has said the box is sensitive, especially when turning a corner on residential roads. He also said he initially had a temporary box fitted and the permanent box was fitted sometime in January 2023, without him noticing any difference or improvement in performance - he felt Aviva forgot to update the box.

I've not seen evidence to show any faults were reported, or evidence of any specific information recorded that was incorrect. Aviva has provided evidence to show the information that was recorded for the low scoring journeys in May 2023. Overall, I've not seen sufficient evidence to persuade me that the information recorded by the box was incorrect, or unreliable. So, I don't think Aviva was wrong to rely on it.

Mr F also pointed out that his overall score hadn't changed so questioned why his policy was cancelled. Aviva has provided a copy of the full policy terms and I'm satisfied these were made available to Mr F. They say that along with monthly scores falling before 50 three months in a row, Aviva can also cancel the policy if three individual journeys score below 50 in any 30-day period.

Aviva has only relied on the latter, and I think it's possible for individual journeys to score below 50 in a particular month without this impacting too much on the overall monthly score, taking into account other journey scores during that month. So, I'm not persuaded that the lack of change to the overall score is an indication of fault or unreliability with the telematics box or the data.

Warnings and chance to correct behaviour

The policy terms do allow Aviva to cancel the policy with notice where the telematics box records a score of below 50 for three journeys in any 30-day period. Mr F has said he wasn't given adequate warnings or a chance to correct his driving, so I've considered this below.

The terms do say that the telematics box would monitor driving behaviour and award a score for every journey taken (between 0 and 100). They also outline what information the box would record in order to calculate the scores and that all scores are displayed in the app where regular feedback would be available. So, I think this is information Mr F was likely aware of, or ought to have been aware of.

Aviva has provided evidence to show notifications (SMS and email) Mr F would have received from the telematics box provider (V), prior to and including the incidents in May 2023. For example, the information shows he received notifications for poor events (low scoring journeys) in November 2022, December 2022 and March 2023. From what I've seen, I'm satisfied that these notifications would have informed him of a score below 50 being recorded, along with the dates of the journeys and a warning that three driving scores under 50 in a 30-day period may result in the policy being cancelled.

I'm therefore satisfied that Mr F did receive adequate warning of low scores, along with a warning that this could lead to his policy being cancelled. And I think this meant he was given a reasonable chance to correct his driving behaviour before the low scoring journeys that took place in May 2023.

Mr F says he only received warnings the day after a low score was recorded. I don't consider this timeframe unreasonable in the circumstances, given that the data needs to be recorded, processed and then notified to the policyholder.

He also said he didn't receive advice on how to improve his score within 30 days of when he was warned, and he felt this invalidated the 30-day period Aviva is relying on. Having read the terms, I'm not satisfied that the 30-day periods referenced within are dependent on Aviva providing advice, so I don't agree with Mr F that this invalidates the 30-day period or makes it unfair for Aviva to rely on it.

I do however agree with Mr F that the terms do say Aviva will notify him each time a single journey score is below 50, along with advice on how to improve his driving.

Aviva has only provided evidence to show it sent notifications to Mr F with advice on improving his speeding score, as a result of minor speeding incidents in January and April 2023. And the data it relied on for the driving scores in May 2023 don't show speeding scores to be the lowest scoring factor contributing to the overall low score for the journeys. So, I'm not satisfied that Aviva has shown it provided advice to Mr F for each single journey score below 50, in line with the policy terms.

But I don't consider the absence of such advice, or the failure to notify him on every occasion of a low score, made sufficient difference. I say this because I think the notifications Mr F did receive over the course of his policy were clear enough to show he had scored below 50 on occasions. And I think this was sufficient to put him on notice that his driving style needed to be improved and to allow him to make further enquiries, including via the app, to understand how he could do this.

And even when he was notified of a low score on two occasions in May 2023, he didn't improve or amend his driving style sufficiently and further journey scores below 50 were recorded in the following days. Mr F says he was not using the app and relying mainly on SMS and email contact. As outlined above, I think he was given sufficient information via the SMS and email contact, but I also think he ought reasonably to have been aware that regular feedback was available through the app.

I don't consider it necessary to make a finding on whether the warnings amounted to official warnings or whether the wording meant the contact amounted to advice rather than warnings. I say this because I think the key consideration is whether Aviva gave Mr F enough information so that he had a reasonable chance to correct his driving behaviour before the events that led to its cancellation. I've outlined above why I think on balance that Aviva did do this.

I don't think it's fair in the circumstances to hold Aviva responsible for Mr F's subsequent low scoring journeys. I don't agree with Mr F that it was reasonable for him to assume his driving style was adequate enough when there is evidence to show he was notified of low scoring journeys and minor speeding incidents on a number of occasions prior to May 2023.

Previous scores

Because he was not contacted each time his score was below 50 in the past, Mr F considers this a breach of the terms by Aviva. He's also pointed out that he'd scored below 50 on occasions in the past and his policy was not cancelled at that time.

Aviva has accepted that Mr F's policy remained in force prior to June 2023, despite Mr F having scored below 50 on occasions. Aviva has accepted this was an oversight on its part but has pointed out that this allowed Mr F to benefit from cover despite its right at those times to have cancelled the policy.

While I accept it's likely that Aviva didn't contact Mr F each time his score was below 50, I don't consider it follows that Aviva isn't entitled to rely on the telematics data and the policy terms to cancel Mr F's policy with notice. I say this because I think Aviva still did provide Mr F with adequate notice and information overall, for the reasons outlined above. And I don't think that Aviva's failure to notify him each time rendered the remaining policy terms invalid.

In not acting on previous scores below 50, I don't think Aviva caused Mr F to lose out. I agree that this meant Mr F benefited from cover under the policy for longer than he would have if Aviva had exercised its right to cancel the policy earlier. And I don't think that Aviva's failure to exercise its rights earlier prevent it from doing so later on, when the conditions for cancellation under the terms present themselves again. Because I'm satisfied this is what happened in May 2023, I don't think it was unreasonable for Aviva to cancel the policy with notice following this.

Additional premium

The policy terms say where a claim has been made during the period of insurance, and Aviva has not been able to recover the full amount from a responsible third party, a refund of premiums will not be provided in the event of cancellation. So I agree, in normal circumstances, it may be fair for Aviva to retain the full premium given that there was an open claim at the time and Aviva hadn't recovered its costs.

But I agree with our Investigator that Mr F wouldn't have benefited from the increased mileage he paid to have covered by the policy, despite having made this payment shortly before Aviva made the decision to cancel the policy. It is for this reason that I don't consider it fair, in the circumstances for Aviva to retain the full additional premium Mr F paid in May 2023.

To be clear, I don't think Aviva did anything wrong in taking the payment in May 2023 for the increased mileage, given that it only received the information from V about the low driving scores on 8 June 2023. But in the circumstances, for the reasons outlined above, I think it's fair and reasonable for Aviva to issue Mr F a pro-rata refund of premiums for the unused portion of the additional mileage he paid £182.04 towards in May 2023.

My final decision

My final decision is that I uphold this complaint in part.

I require Aviva Insurance Limited to:

- Issue Mr F a pro-rata refund of the £182.04 he paid in May 2023 for the additional mileage.
- Aviva Insurance Limited should add interest to the above at the rate of 8% simple from the date it cancelled the policy to the date it pays the above refund*

* If Aviva Insurance Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr F how much it's taken off. It should also give Mr F a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 23 October 2024.

Monjur Alam
Ombudsman