

The complaint

Mr R complains about the way Aviva Insurance Limited (“Aviva”) handled his motor insurance claim.

What happened

Mr R made a claim under his motor insurance policy with Aviva after his vehicle suffered flood damage. He became unhappy with delays in Aviva’s handling of the claim and the level of communication and customer service he received.

He says he couldn’t work for an extended period of time due to not having a vehicle. And that when he was given a courtesy vehicle this was taken back prematurely when the insured vehicle was deemed a total loss.

Mr R is also unhappy that Aviva charged him extra for modifications it said were made to his vehicle, that would’ve increased his premiums. Mr R says his vehicle hasn’t been modified or upgraded, and that any changes were due to repairs only. He also raised an issue with the car’s valuation and complained to Aviva.

Aviva responded to the complaint, saying the underwriter still considered the changes to be modifications which warranted the additional premium payment. It said that as the additional premium wasn’t paid, following a number of reminders, Mr R’s policy was cancelled without refund.

Mr R remained unhappy with Aviva’s actions, so he referred the complaint to this service. Our Investigator considered it, and thought Aviva had acted unreasonably at times. She recommended Aviva remove the cancellation from any databases and confirm in writing to Mr R that the policy was cancelled in error. She also said Aviva should pay Mr R’s additional premiums from when his policy was cancelled until it was due to end, as well as any cancellation fees.

Both parties ultimately agreed with our Investigator’s outcome, but there were some delays in fully resolving the complaint, as Aviva didn’t confirm that the cancellation issue had been settled. So the complaint has now 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.

Having done so, I’ve decided to uphold this complaint. I’ll explain why.

The first point I’ve considered is Aviva’s cancellation of Mr R’s policy for non-payment of the additional premium that it charged, due to what it said were modifications of Mr R’s vehicle. Aviva didn’t provide evidence that these items were modifications or that the underwriting criteria specifies that an additional premium should’ve been charged. So I consider Aviva to have acted unreasonably by requiring Mr R to pay the additional premium, and unfairly

cancelling his policy when he didn't pay it.

When an insurer says there's been a misrepresentation, it's for the insurer to show that the misrepresentation was a qualifying one – that is, that the insurer would've entered into the contract on different terms or not at all, if the misrepresentation hadn't been made. And there's no evidence to demonstrate that there was a qualifying misrepresentation here, because Aviva hasn't been able to demonstrate that it is entitled to charge an additional premium for those particular items. And so I'm satisfied Mr R does not have to pay the additional premium, and that the cancellation should be reversed if it has not been reversed already. Going forward, there should be no reference to this cancellation on Mr R's insurance record.

This error also caused delays in the handling of the claim. I can see there were other delays throughout the claim journey and Mr R has complained of poor communication too. Aviva offered Mr R £350 compensation for distress and inconvenience caused by its errors, and I think this amount fairly compensates Mr R for any problems and delays Aviva caused, bearing in mind the overall time it took to rectify the problems, many of which were resolved within a few weeks.

Turning now to the valuation of Mr R's vehicle, the policy states Aviva will pay Mr R the market value of his vehicle which is defined as "the cost of replacing the Insured Car with one of the same make, model, age, mileage, specification and condition at the date of accident or loss." Aviva made an offer of £21,750 after deducting excesses.

Our service doesn't value vehicles, but we do check to see if the insurer's valuation and offer is fair and reasonable, and in line with the terms and conditions of the customer's policy. To do this, we tend to consider the relevant motor trade valuation guides, which we find to be generally reliable as they're based on nationwide research of sales prices.

Aviva didn't provide evidence to demonstrate how it arrived at its valuation of Mr R's vehicle. So I've checked the available guides and I can see that Aviva's offer sits comfortably above all the trade guide valuations for Mr R's vehicle. Mr R can be assured that the offer is fair, as the trade guides take into account the precise make and model of the vehicle. They don't usually account for the warranties, service plans and maintenance which Mr R has spent considerable amounts on, but these things generally do not tend to affect the value of a vehicle. So I'm satisfied Aviva's offer is fair.

I've looked at all the other aspects of this complaint, which I won't go into detail about here as these have been covered by our Investigator at length, and Aviva has agreed with the Investigator's view. But I should point out that we wouldn't usually compensate for Mr R's loss of earnings, as these would be considered uninsured losses. Mr R would've been without a car due to the accident and the damage, not solely due to Aviva's actions. And although there were some avoidable delays in the handling of the claim, this has been taken into account in determining a fair level of compensation.

Although Aviva initially told Mr R that his policy had been cancelled due to non-payment of the additional premium, following our Investigator's assessment, it then said in an email dated 14 August 2024 that the policy was not cancelled and that the broker had confirmed it hadn't been cancelled.

However, on 3 July 2024 Aviva wrote to The AA to ask it to action the requests the Investigator had recommended. It asked The AA to email back once these had been actioned and completed. Since then, Mr R hasn't heard anything regarding the incorrect cancellation of his policy.

I should clarify that Aviva is responsible for Mr R's complaints involving cancellation of the policy and relating to the claim, as the underwriter of the policy and the business which dealt with the claim. It was Aviva's decision to cancel the policy so it is Aviva that should ensure this is put right. Aviva has also agreed with our Investigator's recommendations and so we would expect it to ensure that this decision is complied with, rather than passing responsibility over to The AA.

Putting things right

Aviva Insurance Limited must now:

- Remove the record of cancellation of the policy from any internal or external databases and provide Mr R with a letter which states that the insurance policy was cancelled in error.
- Reimburse Mr R for the additional premiums he's had to pay as a result of taking out another policy. These should be covered from when the policy was first cancelled until the policy was due to end, and any fees charged should also be refunded. Aviva should also add 8% simple interest per annum to these amounts, from the date of loss to the date of settlement, to reflect the time Mr R has been deprived of these funds.
- Pay Mr R £350 compensation for distress and inconvenience if it has not paid this already. Aviva may deduct from this any amount it has paid in compensation for distress and inconvenience for this complaint to date.

My final decision

My final decision is that I uphold this complaint and I direct Aviva Insurance Limited to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 3 October 2024.

Ifrah Malik
Ombudsman