

The complaint

Miss D is unhappy that Aviva Insurance Limited has cancelled her contents insurance policy.

This complaint involves the actions of agents for whom Aviva are responsible. Any reference to Aviva includes its agents.

What happened

Miss D held a contents insurance policy, underwritten by Aviva.

In November 2023, Miss D made a claim for accidental damage to her mobile phone. After Aviva dealt with the claim, it wrote to Miss D to cancel her policy. It did so because Miss D had made three similar claims in the last two years.

Miss D complained to Aviva. She said she suffers from health problems that have contributed to her claims. And since Aviva had cancelled the policy, she was having trouble finding insurance elsewhere.

Aviva looked into the complaint but didn't change its stance. So, Miss D referred her complaint to the Financial Ombudsman. She was worried that Aviva had blacklisted her which was causing her difficulty in taking out other insurance products.

I reviewed the complaint and issued a provisional decision. In it, I said:

"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'm intending to uphold the complaint. I've set out my reasoning below and how I think the complaint should be sorted out. I've focused on the points and evidence I consider material to my decision.

Miss D's policy gives Aviva the right to cancel where there's a valid reason. One of the reasons listed says:

"Where you have made 3 claims of the same type within the past 2 years."

It isn't in dispute that Miss D has made three accidental damage claims for her mobile phone in two years. So, Aviva was entitled to cancel the policy in line with the above terms. However, I don't think the way Aviva cancelled Miss D's policy was fair and reasonable.

Miss D says she suffers from severe arthritis in her knuckles and her wrists, and her hands get very cold. This makes her more likely to drop things. Miss D informed Aviva of this. I think it's likely that Miss D's medical conditions contributed to the claims she made. I can see Aviva was aware of this and some concern was raised internally about the fairness of its decision.

Further, the day after Miss D made her most recent claim, Aviva's system flagged that she'd made several claims before. Miss D says that if she'd known the actions Aviva was going to take, she would have arranged to have her phone screen repaired elsewhere. I think that's likely given the value of the claim and the significant consequences of proceeding with it. With all this in mind, I don't think the outcome Aviva reached was fair or proportionate.

I'm conscious that Aviva was entitled to end the insurance contract. So, I don't think it would be right for me to tell Aviva to reinstate it. But Aviva would have been aware that cancelling the policy by way of an enforced cancellation was going to have significant and lasting consequences. For example, it's common to have to disclose enforced cancellations regardless of the insurance product or how long ago the cancellation occurred.

I can see from Aviva's notes that it spoke to Miss D about some of the options available in these situations. It said sometimes it can increase a policyholder's excess or add an exclusion for certain claims. I understand these options weren't available for Miss D's policy. However, I think this ought to have placed even more onus on Aviva to consider the impact and fairness of its decision.

I've thought about the fairest compromise. In these particular circumstances, I think Aviva ought to have given Miss D the chance to cancel the policy herself. If it had done so, I think Miss D would have taken the opportunity and would have avoided the enforced cancellation. So, I intend to tell Aviva to amend its records to show the policy as having been cancelled by Miss D. I also intend to tell Aviva to remove any record of the enforced cancellation from internal and external databases, as applicable.

Our investigator asked Aviva if it would be willing to remove the cancellation marker. Aviva declined. It said Miss D wouldn't be being honest if she didn't declare the cancellation. It said even if Aviva removed it, the policy would remain cancelled within Aviva. It also thought removing the cancellation wouldn't be fair on other customers.

I've thought carefully about this. I don't agree that Miss D would have to disclose the cancellation once Aviva amends its records. Customers are expected to take reasonable care to disclose accurate information as it is recorded. There are many instances where insurers amend their records. Further, Miss D will very likely be required to declare her claims history, so future home insurers will still be able to make an informed decision about coverage. And, while I appreciate Aviva's concern about its other customers, I have to consider the fairness of the actions it has taken in this particular case. Having done so, I think the above compromise is the fairest outcome.

Miss D has explained the difficulty she's had in obtaining cover elsewhere, including other insurance products. She's described her attempts where she's told other insurers about her Aviva policy, only to be refused cover. I can't say to what extent the enforced cancellation affected this. But I think it's likely to have made it more difficult for her. I imagine this would have been inconvenient and upsetting. So, I intend to tell Aviva to pay Miss D £150 to recognise this."

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Responses

Miss D accepted my provisional decision.

Aviva said it appreciated Miss D may be more likely to drop belongings due to her arthritis. But it said there are other customers on the same scheme who have circumstances that may lead them to make more accidental damage claims. Aviva didn't think that changing the record of the cancellation, simply because Miss D had made a complaint, would be treating all its customers fairly.

It said all customers on this scheme have the same terms and conditions and all are treated the same way. It said that this is why it couldn't add additional cover, endorsements or higher premiums, and why the rules might seem rigid.

Aviva also thought Miss D would be able to obtain cover elsewhere by contacting services that specialise in finding insurance for those who have been refused. Or, it said Miss D could take out specialist mobile phone insurance. So, it didn't think it was fair to say that Miss D couldn't get insurance elsewhere without providing proof. It also questioned whether she'd been refused because of her claims history rather than the enforced cancellation.

Aviva also raised concerns that changing the record of the cancellation would effectively allow Miss D to lie to future insurers.

Finally, Aviva said that claims are dealt with by a third-party company that only has limited access to Aviva's systems and isn't an underwriter – so they wouldn't be expected to warn a customer about what might happen if they go ahead with a claim.

I now consider it appropriate to issue my 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.

I've carefully considered the points Aviva has raised in response to my provisional decision. However, they haven't changed my view. So, I'm upholding Miss D's complaint for the reasons I outlined in my provisional decision and for the additional reasons below. I've focused on the points I consider material to my decision.

I accept that Aviva may have other customers in a similar situation to Miss D. And I appreciate Aviva applies its policy terms equally to customers on this scheme. But I've had to consider the individual circumstances of this complaint. I don't think treating Miss D the same as all customers on this scheme is necessarily the same as treating her fairly.

What I consider to be the crux of the matter is that Aviva was aware Miss D had a medical condition that likely contributed to the accidental damage claims she made. I appreciate Aviva had limited options with this policy and it saw cancellation as the only possibility. I don't think Aviva acted unreasonably in exercising its right to end its commercial relationship with Miss D.

However, due to Miss D's greater risk of harm from her medical condition, and the likely contribution of that condition to her claims, I don't think the enforced method of cancellation that Aviva chose was fair or proportionate.

Miss D has not provided proof that she's been refused insurance. But she has told our service that she's struggled to obtain home insurance as well as car insurance – a product for which her home insurance claims history would have no bearing. She says difficulty

arose after telling her broker about the cancellation. I said in my provisional decision that I can't be sure that the cancellation affected this. I also recognise that there are services available to customers who have been refused insurance before. But I still think it's likely that having to declare an enforced cancellation would make it more difficult and more expensive for a customer taking out a new insurance policy. I'm persuaded that Miss D very likely suffered distress and inconvenience as a result. So, I still think the compensation award of £150 that I set out in my provisional decision is fair and reasonable.

I don't agree that Aviva amending its records should be viewed as enabling Miss D to lie to future insurers. I say this because I think in these circumstances it would have been fair for Aviva to allow Miss D to cancel the policy herself. And had Aviva explained why, and the consequences of not taking that option, I think it's very likely Miss D would have accepted this. My direction to Aviva is to place Miss D back in the position I think she should have been in, and the position I consider fair.

I appreciate Aviva's claims handlers are not underwriters and I understand they don't have full access to Aviva's systems. But I think it's likely that they would have had access to the policy terms against which they had to consider Miss D's claims – including the term on which Aviva relied to cancel the policy. But I accept it wouldn't have been the claims handlers' decision. Even so, Aviva's complaints team identified concerns over the fairness of the enforced cancellation, so I think Aviva had an opportunity to reconsider its position when it reviewed the complaint.

For the reasons above and within my provisional decision, I'm still of the opinion that the outcome Aviva reached in this particular case was unfair. So, I've set out below what Aviva must do to put things right.

Putting things right

To resolve this complaint, Aviva must:

- Amend its records to show the policy as having been cancelled by Miss D,
- Remove all record of the enforced cancellation from internal and external databases, as applicable, and
- Pay Miss D £150 compensation for distress and inconvenience.

My final decision

For the reasons I've given, I uphold Miss D's complaint and 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 Miss D to accept or reject my decision before 23 October 2024.

Chris Woolaway
Ombudsman