

The complaint

Miss L complains about how Aviva Insurance Limited (Aviva) has handled a claim on her motor insurance policy.

What happened

Miss L was involved in an accident with a third-party vehicle in February 2024. When Miss L reported the accident to Aviva she said it was a non-fault accident, as she held the third-party responsible for the collision.

In July 2024 after contacting Aviva, Miss L learnt the claim had been changed to a fault claim against her. The reason for the change was due to Aviva receiving a witness statement holding Miss L at fault for the accident.

Miss L was unhappy with Aviva's liability decision. She said she'd not been kept informed by Aviva of the change to a fault claim, nor was she approached for further information. She therefore made a complaint.

Aviva said its communication with Miss L had been poor and it had failed to explain the liability outcome and the reasons for the decision. It however maintained its liability decision was correct. Aviva therefore awarded £100 compensation to Miss L.

Dissatisfied, Miss L brought her complaint to this service.

Our Investigator didn't recommend upholding Miss L's complaint. She found Aviva had dealt with the claim in a fair and reasonable manner, having considered the evidence provided by both parties. She agreed Aviva had failed to update Miss L, but that even if Aviva had informed Miss L of the change, the outcome of the claim would've been the same.

Miss L disagreed with our Investigator, so her complaint 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.

My role isn't to consider who was responsible for the accident. It's to look at whether Aviva has carried out a fair investigation, reviewed all the evidence it has available and reached a reasonable decision.

At page 30 of Miss L's policy terms and conditions booklet, Aviva is allowed, like other motor insurance policies to; -

"If we want to, we can take over and conduct in your name...the defence or settlement of any claim or take proceedings for our own benefit to recover any payment we have made under this policy.

We shall have full discretion in the conduct of any proceedings or the settlement of any

claim..."

The general conditions under the policy, allows Aviva to settle the claim on the best terms it felt possible and that it has the final say in how to settle a claim. The term doesn't mean that Aviva can do as it pleases when settling a claim. Its decision must be reasonable and based on the facts and evidence.

Decision to settle

Miss L feels strongly she wasn't at fault for the collision with the third-party. She's provided Aviva with photographs of the damage to both vehicles. Miss L has also attempted to obtain CCTV footage of the collision however she's been unsuccessful. I've seen from correspondence provided by Miss L that she's been advised CCTV footage is only kept for 28 days. Her request was after this period.

As stated above, it's not for me to decide who was responsible for the accident, but whether Aviva has taken Miss L's comments and all other evidence into consideration when deciding whether to concede liability or not.

Aviva says it has reviewed and investigated all the available evidence which includes an independent witness statement that is supportive of the third-party and holds Miss L at fault for the accident. I've seen from the available evidence that a liability expert also reviewed Aviva's file, which included the witness statement. I appreciate Miss L has some concerns regarding the witness statement, namely the time of the accident as given by the witness. However, I've seen from the available evidence that Aviva says the liability expert didn't raise any concerns regarding the validity of the witness statement.

Taking everything into account, I believe Aviva followed a fair and reasonable process in assessing whether to deal with the third-party claim. Aviva utilised the general conditions it was afforded under page 30 of the policy terms and conditions booklet (referenced above), as it's entitled to do, to ensure claim costs were kept to a minimum.

The claim will therefore continue to be recorded as bonus disallowed and going forward Miss L may see an impact to her insurance premium.

As to Aviva's offer to pay £100 compensation to Miss L in respect of its lack of communication with her, I find this to be reasonable given the failure to update Miss L, and the distress and inconvenience this caused. I understand from the file Aviva has paid this, but Miss L should contact Aviva if it hasn't done so.

My final decision

For the reasons I've explained above, my final decision is that I don't uphold Miss L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 19 February 2025.

Lorna Ball
Ombudsman