

The complaint

Mr B complained about Aviva Insurance Limited. He isn't happy about the way it settled a claim under his motor insurance policy.

What happened

I looked at this case and provided my initial thoughts in my provisional decision as follows -

Mr B swerved to avoid a cat while out driving with his young daughter causing some wheel damage and damage to his car door. When he submitted a claim to Aviva it felt there should be two separate claims as the damage to the wheels and the door didn't happen at the same time.

Mr B wasn't happy about this as he thought the damage was all caused by the one incident, so he complained to Aviva. And as it maintained its position he remained unhappy and so he complained to this Service.

Our Investigator looked into things for Mr B and upheld his complaint. She thought it was unfair for Aviva to settle the claim as two separate incidents. And she thought that Aviva should pay £50 compensation in acknowledgement of the stress and inconvenience caused to Mr B because of this.

As Aviva didn't agree the matter has been passed to me for review.

What I've provisionally 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'm minded not to uphold this complaint. I know this will come as a disappointment to Mr B, but I'll explain why.

I have a great deal of sympathy for the position Mr B has found himself as he tried to take evasive action to avoid hitting a cat while driving with his daughter in the car causing him to damage his wheels. And I can understand why he wants the further damage caused when he opened his car door in order to get out and survey the damage caused as all part of the same incident.

While I can understand this the difficulty here is that Mr B didn't stop in the same vicinity of the incident. And while this was understandable, as he was looking to ensure he parked somewhere safe, this meant there was a clear break of at least a few minutes between the initial incident and the second incident when Mr B damaged his car door on a wall as he parked up. For it to be argued that this was all one incident caused by trying to avoid hitting the cat I think Mr B would have had to have stopped in the immediate vicinity of the incident.

So, although Aviva could have chosen to settle both claims as one on a fair and reasonable basis it hasn't acted incorrectly in looking to settle these claims separately. It is clear that there were two incidents – the first was when Mr B damaged his wheels trying to avoid the cat and the second was a while later when Mr B hit his car door when he looked to check the damage caused in the first incident after he had driven on to a car park. Mr B didn't stop immediately at the side of the road to survey the damage caused. He drove on and turned

off the road where it happened and proceeded to a car park and so it is difficult to argue that this was all one incident.

Given all of this, and despite my natural sympathy for the position Mr B has found himself in, I don't think Aviva has acted unfairly here. So, I'm presently minded not to uphold this complaint, subject to any further representations I receive.

Replies

Mr B replied to say he didn't agree with my provisional decision. He felt that I had suggested that Aviva's decision was unfair and said that he had only complied with the highway code in choosing not to stop his vehicle dangerously in the middle of the road and driving on to a place of safety before stopping his car, as opposed to stopping in the immediate vicinity of the first impact. And he said that there wasn't a few minutes between damaging his wheels and parking up suggesting there '*was probably less than a minute*'.

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 again considered all the evidence provided by both sides and the further representations provided I don't think this complaint should be upheld. I don't propose to go over the finer detail again, but I will elaborate on Mr B's further comments.

Although I am sympathetic to Mr B's position the fact remains that there was a clear break between the first and second incident. So, I can't say that Aviva has acted unfairly by treating the incidents separately and it wasn't obliged to treat the two separate incidents as one claim.

I know Mr B has said that the two incidents happened less than a minute apart. But it's clear they were separate incidents as there was a clear break in time and the damage was at different locations as Mr B has acknowledged. He drove on after clipping his wheels, turned off the road he was on and into a car park to a place of safety before hitting his car door.

While this was understandable there clearly was a break between the two incidents and they were clearly separate – one happened while trying to avoid hitting a cat and the other happened while parking up in a car park.

So, while I accept that Mr B was just looking to be sensible and comply with the highway code, and not take any risks at the first scene the two incidents were separate, and I can't tell Aviva to class it as one. And Aviva clearly treats all customers in a similar position to Mr B when they have presented claims like his so it wouldn't be treating all consumers fairly by acting differently here.

Given all of this, I don't think Aviva has acted unreasonably in treating Mr B's claim as two separate incidents and I won't be asking it to do anything further.

My final decision

It follows, for the reasons given above, that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 January 2025.

Colin Keegan
Ombudsman