

The complaint

Mr B complains about the way Aviva Insurance Limited (“Aviva”) investigated a collision and decided liability for a claim under his car insurance policy.

What happened

Mr B had a car insurance policy with Aviva.

In December 2023 Mr B was manoeuvring in a car park and was involved in a collision with a third-party vehicle.

He reported the collision to Aviva and made a claim.

Aviva said it thought Mr B was responsible for the collision.

Mr B complained. He said he didn't think he was responsible for the collision. He also said Aviva should have obtained third-party CCTV footage, but it didn't.

Mr B remained unhappy and brought his complaint to this service. He says Aviva's decision is inaccurate, misguided and illogical. He says it's affected his claims record and means he will have to pay more for cover at renewal. He asks that Aviva change its decision on liability and pay him compensation.

Our investigator looked into his complaint and thought it wouldn't be upheld. He said Aviva had acted in line with its policy wording in how it handled Mr B's claim.

Mr B didn't agree with the view and asked that his complaint was reviewed by an ombudsman. So it's been passed to me to make a 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.

It's important I start by saying it's not this service's role to determine who is liable for a collision. But what I can do is decide whether I think Aviva investigated Mr B's claim fairly and reached a reasonable outcome. And, in this case, I think it has.

I can see from his evidence that Mr B is adamant that fault for the collision was not his. I'll briefly explain the circumstances of the collision:

Mr B was in a car park. He'd turned his car in a way that meant he could then reverse into a parking space. He was reversing into that space when the third party entered the car park and drove forwards apparently to the same space Mr B was aiming for. The vehicles collided, causing minor damage to the left rear wheel arch area of Mr B's car. The third-party vehicle was also damaged.

In the file of evidence, I can see Mr B has talked about the third-party driver driving forwards

into his car damaging it. But I can also see he's also said he "...was already reversing".

And it's this description of the events of the collision that seems to have formed the main part of Aviva's handling of his claim.

I can see it's talked about this in its final response to Mr B:

"As you were the party reversing at the time of the accident, the greater duty of care would have been on yourself, this would include the checking of all mirrors. The third-party was proceeding correctly through the car park, broke no laws, and therefore we cannot hold them at fault."

Unfortunately for Mr B, his insistence that he wasn't at fault for the collision doesn't mean that, in court, he's not going to be found at fault for it.

It's important I say that the word 'fault' here has a particular meaning for Aviva. What it means is that it's not able to recover its costs from a third party responsible for the collision. In other words, if Mr B was at least partially responsible for the collision then his 'fault' will be shown on his records.

I can see Mr B told Aviva that CCTV footage was likely available, and I can't see that Aviva requested this from the CCTV operator. Aviva seems to have taken the decision to decide liability from the descriptions of the collision from Mr B, and subsequently from the third-party insurer when a counter-claim was submitted in about May 2024.

What Aviva has done is consider relevant laws and appropriate case law for similar situations. And in this case I think it's done enough to satisfy itself about liability for the collision.

Aviva also has a responsibility to keep its costs low, and what this means is that it doesn't need to pursue all available evidence about the collision if it can reasonably satisfy itself about liability for it.

So, while I may think that Aviva could have requested the CCTV footage at some point in the claims process, I don't reasonably think it would have affected the outcome of the claim being that Mr B was held at some fault for the collision.

In his responses to this service Mr B has denied that Aviva has the right to settle claims as it sees fit.

But in the policy wording I can see this policy condition:

"If we want to, we can take over and conduct in your name or that of the person claiming under the policy 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 proceeding or the settlement of any claim."

This type of clause is common in motor insurance policies, and I think its use is fair here.

What this clause means is that it's Aviva's choice about the decision on liability for the collision. Ultimately, this can happen without Mr B's agreement. Aviva has followed its policy terms and conditions, so it follows I think its decision on liability is fair.

Mr B has complained that the finding of him being at 'fault' for the collision will affect his renewal premium. I can see that in his evidence, he's provided details about a significant

uplift year on year. There are many factors taken into account by insurers when calculating premiums. These will include a claim whether 'fault' or not, and also because prices have been rising in the motor insurance marketplace. But I'm not able to uphold this part of his complaint because, as I mention above, I think Aviva's decision on liability was fair.

I've also thought about Mr B's request for compensation. I can see he feels he's been caused distress by the length of time Aviva took to deal with his claim. I can see from the file that initially his claim was being dealt with on a non-fault basis and was being described as Mr B being parked, and the third party driving into him. The was disputed by the third party about 4-5 months later. So I can't fairly say Aviva caused the delay here, and Mr B's claim seems to have progressed reasonably.

I'm not upholding this complaint and I'm not going to ask Aviva to do anything more.

My final decision

It's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 February 2025.

Richard Sowden
Ombudsman