

The complaint

Mr D has complained about Aviva Insurance Limited's decision to record a claim as a fault claim against his car insurance policy.

What happened

Mr D was waiting to turn right at a four way junction with traffic lights. As he turned right, he collided with a car coming in the opposite direction going straight on.

Mr D says the other driver jumped a red light and so says he wasn't at fault for the incident.

Aviva said the onus was on Mr D to wait until it was safe to turn right across traffic. It said it couldn't prove the other driver had jumped a red light. So it settled the claim as a fault claim.

Mr D asked us to look at his complaint. One of our Investigators thought Aviva had reached its decision reasonably. So he didn't recommend the complaint should be upheld.

Mr D disagrees. In summary he says the evidence he has provided of how long the lights are red at the junction hasn't been considered by Aviva or us. He says this evidence is key to proving he isn't at fault for the incident.

So the case 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.

We don't decide liability. This is the role of the courts. But we can look at whether an insurer reached a decision as to how to settle a claim reasonably and in line with the policy.

Aviva's policy – like most, if not all insurance policies I've seen – says it can take over the defence and settlement of a claim. This term means Aviva can make a decision Mr D might disagree with, but the policy allows Aviva to do this. We don't disagree with this term in principle provided an insurer can show it treated a customer fairly when applying it.

I've looked at the video footage of the incident, which has been very helpful. It is from the angle of the traffic waiting at a red light, while Mr D's car and the other driver's car are travelling in opposite directions to each other. So the footage doesn't show when the lights turned from green to red for the cars involved in the collision.

The footage shows Mr D's car has moved into a box junction preparing to turn right. A number of cars from the opposite direction proceeded in their 'straight on' direction.

Mr D proceeded to turn right while another car was travelling straight on from the opposite direction and so the collision occurred. The damage to Mr D's car was to the left side (as he was turning right), while the damage to the other car was to the front (as they were proceeding straight on).

I understand Mr D feels strongly that separate evidence he has provided of how long the traffic lights stay red for both sets of traffic is significant. He says it proves the other driver jumped a red light. I'm not persuaded that this information is supported by the timing of the

lights changing and the movement of traffic in the footage. In any event, Aviva said it couldn't prove the other driver jumped a red light.

I can see that Aviva properly considered all of the evidence available and sought advice from its liability expert. Aviva decided that the footage and the circumstances of the incident carried sufficient weight in determining fault if the matter was decided in court. The fact is the footage shows Mr D turned right while a vehicle was proceeding in the opposite direction, going straight on. It doesn't show the other driver jumped a red light. Nor does the gap from the incident – to the lights turning from red to green for the waiting traffic – indicate that the other driver jumped a red light. This doesn't mean Aviva – or I don't believe Mr D. But Aviva has relied on what the evidence shows. And the CCTV footage carries strong weight in determining fault in this case. The onus is on Mr D to check it is safe and clear before turning right across traffic. Aviva and the Investigator set out the relevant sections of the highway code which Aviva has relied on when reaching its decision.

I realise Mr D will be very disappointed with my decision. But taking everything into account, I think Aviva reached its decision to settle the claim as a fault claim in a reasonable way and in line with the policy. So I'm not asking it to change its decision.

My final decision

For the reasons I've given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 11 April 2025.

Geraldine Newbold
Ombudsman