

## **The complaint**

Mr H complains that Aviva Insurance Limited (“Aviva”) recorded a non-fault accident as a claim, when no claim had been made, under his motor insurance policy.

## **What happened**

Mr H took a new policy with Aviva. It sent him an email saying he’d processed another quote that showed a fault-claim. It asked him to make sure that the details he’d provided were correct. Mr H says he informed Aviva of a minor accident, which he’d settled without making a claim. Aviva then cancelled his policy.

Mr H says his policy was subsequently reinstated and he was told to enter the details of the accident. If he did he was told the policy would remain in force. Mr H says the policy was cancelled again when he entered this information.

Mr H says the information requested by Aviva relates to claims. But he maintains that he didn’t make a claim. He says it’s unfair that he was made to record this incident as a claim, which is incorrect. This has resulted in him having to take a more expensive policy.

In its final complaint response Aviva says Mr H was asked to declare any accidents when he completed his policy application. It says he didn’t declare the accident he has since described. Aviva told Mr H that his policy may be invalidated unless the correct information is provided.

Mr H didn’t think Aviva had treated him fairly and referred the matter to our service. Our investigator didn’t uphold his complaint. She says Aviva has shown it wouldn’t have covered Mr H had he answered the question about accidents correctly. She thought it was fair that it had cancelled the policy, and returned Mr H’s premium in full, which included the charge for his time on cover.

Mr H didn’t accept our investigator’s findings. He asked for an ombudsman to consider his complaint.

I issued a provisional decision in March 2025 explaining that I was intending to uphold Mr H’s complaint. Here’s what I said:

### *provisional findings*

*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 my intention is to uphold Mr H’s complaint. Let me explain.*

*The relevant law in this case is the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). Under CIDRA Mr H must take reasonable care not to make a misrepresentation when taking out insurance. If Mr H doesn’t do this, CIDRA allows an insurer to take certain actions, assuming the misrepresentation is a qualifying one. A*

*qualifying misrepresentation is where the insurer wouldn't have provided cover at all, it would only provide cover under different terms, or it would only provide cover for a higher premium.*

*Aviva provided the question Mr H was asked about accidents and claims. He applied for his policy through a price comparison website. The question he was asked says, "Have you had any motor accidents, claims or losses in the past 5 years, no matter who was at fault or if a claim was made". An information box is presented next to this question. It says:*

*"It is really important to tell us about any claims (including unsettled claims), accidents or losses that are motor vehicle related."*

*The statement of fact document Aviva sent to Mr H shows he had declared no accidents or losses in the past five years. This isn't correct. Mr H confirms he was involved in an accident. He explained that another driver parked too close to his car, which resulted in a minor collision. Mr H thought the other driver was at fault. But he agreed to settle the matter with the other driver without making a claim.*

*I've thought carefully about Mr H's explanation of the accident he was involved in. I understand his view of who was at-fault and that he hadn't made a claim. But he was clearly asked if he'd had any accidents in the past five years, no matter who was at fault, or if a claim was made. Mr H should've answered 'yes' to this question. I understand his point about having to fill out a form that he didn't think reflected the circumstances of his accident. But again, the question he was asked was clear. He was asked to declare all accidents.*

*Aviva has provided its underwriting information. This is considered commercially sensitive information so I can't share it. But it doesn't show that had Mr H answered accurately, he wouldn't have been offered any cover. I asked Aviva to provide clear information that shows the accident Mr H was involved would mean it wouldn't offer cover. But it didn't respond. Because of this I can't say that he made a qualifying representation under the CIDRA rules. This means the remedy for Aviva to avoid Mr H's policy isn't available.*

*However, Aviva hasn't relied on the remedy available under the CIDRA rules. It cancelled the policy and refunded the premiums in full. It says this is because Mr H's accident meant its underwriting criteria hadn't been met. The premium refund includes the charge for the time Mr H's policy was on risk.*

*I acknowledge the business's explanation that Mr H's policy was initially cancelled because of the discrepancy. The policy was reinstated, and he was told he could try and amend it to include the correct information about his accident. Aviva told him that if its system allowed this, Mr H could continue with his policy under the premium originally specified. But if the system declined cover, with the accident declared, the policy would need to be cancelled.*

*Aviva explains that Mr H has a self-managed policy. This is why he was required to take these steps. It says the underwriting decisions are made by the system when the customer inputs their information. In the circumstances I think it acted reasonably when informing Mr H of these steps to see if the policy could be accepted.*

*Having considered the evidence, Aviva hasn't provided underwriting information that shows it wouldn't have offered cover had Mr H declared his accident. In these circumstances I don't think it was fair for Aviva to tell him that his policy had to be cancelled. I've thought about the impact this had on Mr H.*

*Aviva says this isn't a cancellation Mr H will need to declare to future insurers. This means it won't impact on his ability to obtain insurance or the cost of his premiums. He's received a full refund of all premiums paid plus the cancellation fee. This means Mr H benefitted from*

*the short period he was on cover with no charge. That said he was inconvenienced when he had to find alternative cover. Clearly Mr H has found this frustrating.*

*I asked Aviva to respond to Mr H's comments that he was able to obtain another policy with Aviva as underwriter, having declared the accident. In response it says the products it sells directly and those via brokers are different. They have different terms, conditions, and criteria. It says this doesn't mean it was wrong not to accept the Aviva online policy. I think this reasonably explains how Mr H was able to obtain the policy he refers to.*

*Having considered all of this I don't think Aviva treated Mr H fairly when cancelling his policy. I think it's fair that he's received a full refund without the application of a cancellation fee. It's also fair that Mr H doesn't need to declare the cancellation to other insurers. But Aviva should acknowledge the frustration and inconvenience it caused by providing a compensation payment. In these circumstances I think £200 is fair.*

I said I was intending to uphold Mr H's complaint and Aviva should pay him £200 compensation.

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

Mr H responded to say he accepted my provisional decision.

Aviva responded with more information relating to its underwriting criteria.

I issued a second provisional decision in April 2025. Here's what I said:

*second provisional decision*

*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 my intention is to not uphold Mr H's complaint. Let me explain.*

*In my provision decision I explained that I'd asked Aviva to provide clear underwriting information to show it wouldn't have offered Mr H cover had he answered accurately about his accident. The information the business supplied didn't persuade me that it wouldn't have offered cover. As a result of this I thought it fair that it should compensate Mr H for the frustration and inconvenience it had caused him.*

*Aviva has since provided a statement from an underwriting manager. The information provided persuades me that the underwriting criteria the business had in place means it wouldn't have offered cover to Mr H given his age, had he declared the accident in question.*

*Based on this evidence I'm now satisfied it was correct for Aviva to cancel Mr H's cover for the reasons it gave. He's received a full premium refund with no charge for time on cover, which I think is fair. Aviva also confirms that he isn't required to declare the cancellation to any future insurers. This means the cancellation won't impact on his ability to obtain insurance or his premiums going forward.*

*As Aviva has provided evidence to show it acted fairly, I can't reasonably ask it to pay Mr H compensation. So, although I'm sorry to disappoint him, my intention is to not uphold his complaint. This means Aviva doesn't need to do anything more.*

I asked both parties again if they had any further comments or information for me to consider.

Aviva responded to say it accepted my second provisional decision.

Mr H initially responded to say he accepted my provisional decision albeit reluctantly. He then submitted a number of emails with detailing his dissatisfaction with my findings. This was detailed over a number of emails. I won't set this out in full. But in summary he maintains that he gave correct information to Aviva based on the questions he was asked. He questions how an insurer can cancel a policy based on his age. He also says he's been affected badly by Aviva's actions.

With his submissions Mr H provided a photo of his car and says the damage shown is due to a stone being thrown up from the road. Mr H also provided a copy of a letter he sent to Aviva about his complaint.

### **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 done so I'm not persuaded that a change to my second provisional decision is warranted. I'll explain why.

In my first provisional decision I confirmed the question Mr H was asked when he applied for his policy online. This said:

*"Have you had any motor accidents, claims or losses in the past 5 years, no matter who was at fault or if a claim was made".*

I explained that an information box was presented next to this question that stated:

*"It is really important to tell us about any claims (including unsettled claims), accidents or losses that are motor vehicle related."*

Mr H declared that he had had no accidents in the past five years. But this wasn't accurate. He was involved in an accident within the past five years, which he settled with the other driver. In my first provisional decision I said Mr H should have answered 'yes' to this question. My view of this hasn't changed. I acknowledge what Mr H says about not making a claim for this accident. But the question he was asked was clear that he should declare any accidents or losses regardless of whether a claim was made.

Because of this I think Mr H did make a misrepresentation under the CIDRA rules. This was a qualifying misrepresentation as Aviva has shown it wouldn't have offered cover at all had Mr H not made this misrepresentation. This means Aviva was able to avoid Mr H's policy. However, it didn't rely on the CIDRA remedies. It cancelled the policy without the need for Mr H to declare this to future insurers. This means the cancellation won't impair his ability to obtain insurance in future and won't impact on his premiums. Aviva also provided a full refund of the premiums Mr H paid, and no cancellation fee was charged.

I acknowledge Mr H's comments about his age being a factor in the cancellation of his policy. The criteria Aviva uses in its underwriting is for it to decide. This isn't something the Financial Conduct Authority (FCA) regulates on and isn't something we can interfere with. However, age is a factor that is commonly considered when insurers assess risk. In Mr H's case the underwriter confirmed it declined cover when it was informed of the accident Mr H

had been involved in. Had this been declared correctly at the outset no cover would have been offered.

I've read the letter and photo Mr H provided, but this doesn't alter my view of his complaint. I'm sorry that he remains unhappy with my decision. But for the reasons explained here and in my provisional decisions, I'm not persuaded to uphold Mr H's complaint.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 6 June 2025.

Mike Waldron  
**Ombudsman**