

### **The complaint**

Ms R has complained that Aviva Insurance Limited has settled a third party claim against her car insurance policy as a fault claim. Ms R says she was not involved in the incident.

### **What happened**

Ms R's insurer Aviva received a claim from a third party insurer (TPI) in December 2024. They alleged Ms R's vehicle had been involved in an incident in the same month, and the driver hadn't stopped to exchange details.

Ms R said her car hadn't been involved in the incident. She said she had brought her car to the purchasing garage the next day for an unrelated issue under warranty. An agent at the garage advised Ms R that somebody had come to the garage to ask for her details in relation to an incident the day before.

Ms R said the day after the incident she noticed some minor damage to her car which she believed had occurred separately while it was parked unattended. Ms R says she immediately arranged for the damage to be repaired.

Ms R said she received Aviva's letter about the allegations in January 2025. Ms R provided a statement along with statements from people she knew which said the damage to her car wasn't there on the date the incident was alleged to have happened.

In February 2025 Aviva received a statement from an independent witness on behalf of the TP claim. They said they witnessed the collision and had provided the TP with a photo of the number plate of the car at the time. The details on the plate matched Ms R's car and displayed the garage details matching the garage where Ms R had bought her car from.

Aviva said based on the evidence available, it couldn't defend the claim. The area of damage Ms R said had occurred to her car, which had subsequently been repaired, matched the area of impact as described by the independent witness.

Aviva said it had no choice but to accept liability and settled the third party claim on a 'without prejudice' basis.

Ms R didn't agree and complained to Aviva. But Aviva didn't uphold her complaint. So Ms R asked us to look at her complaint. One of our Investigators didn't recommend the complaint should be upheld.

Ms R asked for an ombudsman to decide. In summary she says Aviva hasn't properly investigated the claim.

### **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.

I haven't set out every detail of the circumstances of the claim in my decision, but I have

read everything provided. My decision focuses on the salient points.

Ms R's policy with Aviva has a very common term which I've seen in most – if not all car insurance policies. This term says Aviva can take over the defence and settlement of a claim in Ms R's name. This means Aviva might make a decision Ms R doesn't agree with, but the policy allows Aviva to do so.

We don't disagree with this term in principle provided an insurer can show it treated its customer fairly when applying it.

Aviva as an insurer has daily experience of handling and settling claims. It can decide whether it is better to settle a claim than pursue the defence of it if it deems the chances of success are unlikely.

I think the evidence in this case provided by the TPI carried more weight and made it very difficult for Aviva to prove Ms R's car – which had incurred damage at a similar time and been repaired - wasn't involved in the incident. The witness statements Ms R provided as to the condition of her car are not considered independent as they are provided by people known to Ms R. They do not carry as much weight as the statement and evidence the TP's independent witness provided.

It isn't in an insurer's interests to meet a claim if it believes it has a good chance of defending it.

It is not for this service to decide liability, but to look at whether an insurer reached its decision reasonably and in line with the policy. Having done so, I find Aviva has.

I understand Ms R feels strongly about her complaint. But based on the information available, I think Aviva's decision to settle the TPI claim was a fair one to make. As it has settled the claim on a 'without prejudice' basis, Ms R can consider claiming directly against the TPI. But she will need to seek her own legal advice about that.

As I'm not upholding the complaint, this means I find Aviva has correctly recorded the claim as a fault claim against Ms R's policy. I think Aviva has treated Ms R fairly and as it would any other customer in the same circumstances.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 30 January 2026.

Geraldine Newbold  
**Ombudsman**