

The complaint

Mr C has complained about Aviva Insurance Limited's handling of a claim on his motor insurance policy. In particular he is concerned that it initially incorrectly accepted liability for the third party's claim and has failed to keep him informed about developments.

What happened

In December 2023 Mr C's wife, Mrs C, who is a named driver on his policy, was driving their car when she was involved in an incident with a motor scooter rider (the third party). Mrs C said she was turning right from one road onto another when she saw the third party coming towards her from the side. She stopped expecting the third party to avoid her. However, she said the third party lost his balance and went over on his side in front of the car. In contrast, the third party said Mrs C failed to give way when pulling out knocking him off his scooter.

Mr C reported the incident to Aviva. It initially said that Mrs C was at fault, but Mr C challenged that.

The same month, December 2023, the third party submitted a claim against Mr C's policy via his representatives (who I'll call B), which included a claim for personal injuries. Aviva initially rejected that claim because of irregularities with the claim notification form. B then resubmitted the claim in January 2024. Aviva referred the matter to its solicitors (who I'll call K) to defend the claim. However, when doing so it ticked a box on the referral form saying that liability was "admitted". That wasn't the case.

In February 2024 K advised B that Aviva accepted liability. However, in May 2024 K identified that Mrs C's version of events did not accept liability. K spoke with Mr C who confirmed that was the case. K said they would defend the claim.

In the ensuing months Mr C on numerous occasions engaged with Aviva and K: providing information and evidence and asking for updates. As Aviva considered he was dissatisfied with progress, it logged a complaint. Aviva sent the final response to that complaint on 30 August 2024. It acknowledged it had made an admin error when referring the matter to its solicitors. It said its current position was that it had "fraud concerns" with the claim, which meant fraud teams from both Aviva and K were investigating. But it couldn't guarantee the outcome of those investigations. Aviva confirmed that K were contesting liability but said that, until the claim was resolved, it would show as a fault claim against Mr C's policy.

Aviva acknowledged that its initial error had caused Mr C frustration and to lose confidence with it. And in recognition of the impact of its errors it paid Mr C £250 compensation.

Mr C remained unhappy and brought his complaint to the Financial Ombudsman Service. One of our investigators looked into it. He didn't think Aviva needed to take any further action. As Mr C didn't agree with our Investigator's assessment of the complaint, the matter's been passed to me to determine.

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.

Since the incident in December 2023 Mr C has engaged in regular and comprehensive correspondence with Aviva and K. During that process he has raised many points. He's also taken the time to supply further information to us. I've considered everything on file. However, in this decision, I'm not going to refer to every single point or issue raised. Instead, I've focused on what I think are the key issues here. Our rules allow me to take this approach. It simply reflects the nature of our service. We are (for some parties) a free alternative to the courts. Our role is to resolve complaints tasked with resolving complaints with the minimum of formality. So, if there's something I haven't mentioned, it isn't because I've ignored it. It's because I'm satisfied I don't need to comment on every individual argument or issue raised to be able to reach what I think is a fair and reasonable outcome in all of the circumstances.

As I understand it Aviva's defence of the claim is ongoing and the matter remains unresolved. However, in this decision I will only be addressing events up to the date that Aviva sent its final response to Mr C's complaint, 30 August 2024.

Mr C thinks Aviva has failed to follow its own processes from the outset. It told him it applied additional scrutiny to cases brought by B. But, when it received the claim form from B in December 2023 it didn't apply additional scrutiny, it simply rejected the claim. But I don't find that this amounts to a failure to follow its own process. At that time, B had not presented a valid claim. So Aviva could, at that point, dismiss it without investing further resources. And I don't think it was required to give the matter additional scrutiny until it had received a completed complaint form that warranted applying the required resources. Again, I don't consider this to be a failure of process.

After that, it's not in dispute that Aviva has made mistakes and could have provided a better service. In particular, when passing the file to K, it incorrectly said liability was accepted. That mistake essentially diverted the handling of the claim defence onto the wrong track. As at that point it would seem that, initially at least, K didn't give the third party's liability arguments the scrutiny they would otherwise have been subject to.

However, while that might have initially slowed the defence of the claim down, I don't think it's led to significant harm to Mr C. That's because K has since made it clear to B that they do not accept liability. And given that, to date, the matter remains outstanding, I don't think that Aviva or K denying liability sooner would have led to a significantly quicker resolution of the matter.

Further, it appears that Mr C's preferred strategy would have been for Aviva to present counter arguments to the third party's submissions from the outset. He believes that because Aviva hasn't done so the claim has taken longer than required to be settled in his favour. He seems to think that if it had followed his preferred strategy the matter would be resolved by now. But I don't think that's the case.

There can be many legitimate reasons why solicitors or others defending a claim don't always present all their counter arguments or evidence immediately. And, I don't think there's anything wrong with that. So claims handlers and solicitors aren't required to instantly present counter arguments even where their clients think it's the best strategy. They're engaged because of their professional expertise. So it's not unusual for claims to be handled in line with that expertise.

Further, in this case two fraud teams are involved, Aviva's and K's. And where fraud is an apparent concern, those investigating will often wish to take the time to gather as much intelligence and evidence as possible before presenting a case, so as not to inadvertently release information where it's not appropriate to do so. And it's not unusual that such investigations might mean a claim can take longer to settle. And for consumers like Mr C that can be a source of significant frustration. But given that might mean a claim is ultimately settled in the consumer's – in this case Mr C's – favour, I don't find that approach inherently unfair.

As I've already said Mr C thinks that Aviva could have resolved the matter sooner with earlier counter arguments. Before reflecting again on that point I need to make clear that it's not my role to decide on liability for an accident, as ultimately that's a matter for the courts. Some of the evidence and arguments Mr C thinks Aviva should have presented to B sooner could certainly call into question the reliability of some of the third party's claims. But from an independent perspective, I think B is unlikely to consider those to be definitive proof that's the claim has no prospect of success. For example the images and videos supplied were all taken after the incident. So I can't see that they'd prove Mrs C was definitely not liable for the accident itself. In those circumstances, I'm not persuaded that presenting the arguments Mr C thinks Aviva should have made immediately to B would have resulted in them or the third party dropping the claim entirely.

Another way in which Mr C thinks Aviva has failed to follow its own processes concerns something set out in K's FAQ¹ which was appended to their introduction letter. He's specifically quoted where K said it usually handles such claims rather than the insurer because:

"...your insurer has been trying to settle the claim on your behalf with the Claimant's representatives"

It appears that Mr C has interpreted this to mean that, because Aviva didn't engage with B itself from the outset but referred the matter to solicitors, it has failed to follow due process. But I think he's wrong.

As I'm sure Mr C is aware the FAQ information is exactly that. It's an attempt to deal, in one place, and at an early stage, with the sort of questions that policyholders are likely to ask once K becomes involved in a claim. The answers it gives are not case specific. In fact they are not even specific to Aviva as the insurer. K's own website says they are a leading provider of claims solutions to "insurers". Aviva isn't K's only client. And the content of the FAQ does not refer to Aviva alone. It follows that the FAQ doesn't indicate a specific process Aviva (or any other insurer) was under any obligation to follow.

Further, Mr C's policy allows Aviva full discretion to conduct and settle a claim in a manner it sees fit. This means that, as long as it acts fairly and reasonably, it doesn't need to follow a certain process. In this case it's apparent that it chose to refer the matter to solicitors at an early stage. It's clear Aviva has concerns both with the evidence in this case and, it would seem, with the conduct of B more generally. So I think it was reasonable that it would want its solicitors to handle this rather than to engage with B itself at the outset, which Mr C seems to think is was required to do. It wasn't.

I'll add that there's also been evidence of some miscommunication by both Aviva and K. For example they told Mr C that they hadn't admitted liability to the third party, when in fact K had done so in February 2024. But they've since told B that their enquiries were ongoing and that "all previous offers and admissions are now withdrawn". So it's clear K had identified the mistake and done what they could to put things right.

Similarly, Aviva believed it had passed on to K all the evidence Mr C had supplied to it from the beginning. But, when Mr C spoke with K they told him that wasn't the case. He sent that evidence again. I appreciate that may not necessarily fill Mr C with confidence in Aviva's information sharing abilities. But neither Aviva nor K can simply turn back the clock now and undo any mistakes. And there's no compelling indication that the defence of the claim has suffered any serious setback because of such mistakes. Indeed, the evidence I've seen shows that Aviva and K were taking appropriate actions, including referring the matter to their fraud teams, to try and steer the claim defence in the right direction.

That said I'm aware Mr C's invested a considerable amount of time and effort into submitting and reviewing evidence and in communication with Aviva and K. However, it's usual for

¹ Frequently Asked Questions

policyholder's and – where appropriate – named drivers to be required to take some steps to assist with claims. That's because the insurers aren't there at the time of the accident, and while they can do a certain amount of evidence and intelligence gathering themselves, to some extent they will always rely on their policyholders to provide evidence. So there will always be some inconvenience for a policyholder in such circumstances even where things go smoothly.

I note that Mr C has occasionally been put to the trouble of providing evidence twice, and he's chased Aviva and K for updates. But I don't think all of the time he's invested in dealing with the matter is because of errors or mistakes on Aviva's or K's behalf. It seems that Mr C is heavily engaged with the process and wishes to be kept abreast of all developments. I can understand his interest in wishing to see the matter brought to a close and – for him – to achieve a positive resolution. But his level of engagement and the number of interactions aren't all born out of errors or omissions on behalf of Aviva or K. Instead I think they're representative of his desire to be apprised of and involved with the process.

However, as I've already said, there's no doubt that Aviva has got some things wrong. But it's taken steps to lessen the impact of those, by, for example, making clear to B that liability is not admitted. And it's accepted that its mistakes have been a source of frustration and upset for Mr C when it offered him £250 compensation. I appreciate Mr C doesn't think that sum goes far enough or is suitable redress for the impact these events have had on him. However, I'm satisfied it's an appropriate sum in the circumstances. That's because it recognises that Mr C has had to put in additional effort to sort things out, which has clearly been the source of some distress for him. And it's in line with awards we make in other cases of a similar seriousness.

Mr C's suggested that Aviva should be referred to the regulator or otherwise sanctioned for its process failures. However, it's not our role to fine or punish a business for its errors. And as I've indicated above, while Aviva hasn't got everything right, I haven't identified any significant process failures such that a referral to the regulator might be warranted.

Similarly Mr C's commented that his premiums have increased by around £750. He's said he understands that the claim will continue to be recorded as a 'fault' claim, until such time as it is settled (and that will have an effect on his premium) but he thinks Aviva should compensate him for this sum on a 'ex gratia' basis. However, as I've said above, I'm satisfied that Aviva has already paid him adequate compensation for the impact of its mistakes.

Further, even without its errors, given that we're now a year beyond the date when Aviva responded to Mr C's complaint, it's highly unlikely that the claim would have been settled before his policy renewed. So, it seems likely it would have continued to affect his policy premium regardless of any errors. In those circumstances, I see no reason to reflect the increase in premium in any compensation payment.

My final decision

For the reasons set out above I'm not going to direct Aviva Insurance Limited to take any further action.

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

Joe Scott
Ombudsman