

The complaint

B, a limited company, has complained about the way its commercial vehicle insurer, Aviva Insurance Limited ('Aviva'), dealt with a claim made against its policy by a third party after one of its vehicles was involved in an accident.

B's complaint is brought to us by two of its directors, Mr B1 and Mr B2.

What happened

In June 2024, one of B's vehicles was involved in a low-speed impact with another car. Mr B1 and Mr B2 said the accident happened as a result of the third party braking suddenly when pulling off at a roundabout. At the time the driver of B's vehicle said they didn't see any significant damage to the third-party car so they didn't think there would be a claim.

Mr B1 and Mr B2 informed Aviva about the incident and said they didn't hear anything back, so they assumed the matter had been closed. When the time came to renew B's policy in January 2025, they were informed by their broker that the premium had risen by £800 due to the fact that Aviva had settled the third-party claim in August 2024. Mr B1 and Mr B2 said this was done without their knowledge.

Mr B1 and Mr B2 complained to Aviva and said the amount it paid out (around £1,800) was excessive compared to the level of damage sustained. They were also unhappy that they weren't contacted and had no input before the claim was settled and about the fact that they believe they will have to pay an additional £350 per year for B's insurance over the following five years. They said had they been given the opportunity, they may have settled the matter privately. Mr B1 and Mr B2 were also concerned that their driver could have been at risk of invalidating their private motor insurance as they hadn't informed their insurer about the claim.

Aviva responded to the complaint and upheld it in part. It said though it wrote to B's broker to inform it of the decision to settle the third-party claim, this was sent to an incorrect email address. Nevertheless, it stood by its decision to settle the third-party claim. It said the circumstances of the accident indicated that B's driver was at fault. It said it settled the third-party credit hire claim on a without prejudice basis in order to minimise costs. It apologised for the inconvenience it caused and offered B £150 compensation which was later increased to £200. Aviva also told Mr B1 and Mr B2 that if they wished to buy back the claim on B's behalf, they could contact it or its broker to discuss this.

Unhappy with Aviva's response, Mr B1 and Mr B2 brought their complaint to our service. They said they wanted the claim to be removed from B's insurance record. Alternatively,

they asked Aviva to pay them £2,400 for additional premiums B will have to pay over the following five years.

One of our investigators reviewed the complaint but didn't think Aviva had to take further action. He said under the terms of the policy it had the right to take over and deal with the third-party claim.

Mr B1 and Mr B2 didn't agree and asked for an ombudsman's decision. They said this was a case of "maladministration" by Aviva and that it failed to take the course of action it said it would take i.e. to contact them in case a claim was made. Aviva had their details and could have contacted them instead of the broker.

Our investigator didn't change his view, and the matter was 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.

Under the terms of the policy, Aviva can take over and conduct in its policyholder's name the defence or settlement of any claim and will have full discretion in the conduct of any proceedings or settlement of any claim. Such terms aren't unusual in motor insurance and are in most motor policies I am aware of. We also don't consider such terms to be unfair especially if relied upon in order to minimise costs. Nevertheless, we expect insurers to act fairly and reasonably when taking over and deciding to settle a claim.

As our investigator explained, it isn't the role of this service to determine whose fault a particular accident was. But we can decide whether an insurer's assessment of liability was reached fairly and reasonably with sufficient consideration of the evidence and based on correct information. In the specific circumstances where B's driver was the party who collided with the vehicle in front, I think it is fair and reasonable that Aviva decided that its insured was more likely to be held at fault for the accident. As the party at the back, they are obliged to keep a safe distance from the vehicle in front.

Mr B1 and Mr B2 don't dispute that their driver collided with the back of the third-party vehicle. But they are unhappy with Aviva's decision to settle the third-party damage claim. They said that at the time there was very minor damage noted by their driver and they didn't expect Aviva to receive a third-party claim.

Aviva, as B's insurer, doesn't have a say on whether a third party makes a claim against its customer or not. That's a matter for the third party and its insurer. Bearing in mind Aviva assessed that B was, most likely, the at fault party, the next step for it would be to try to minimise costs as much as possible in the event a third-party claim was made. I appreciate Mr B1 and Mr B2 didn't expect this, but it seems the third party did decide to claim after all. I appreciate this may have been frustrating for them especially as they felt that any damage was minimal, but this isn't something I can hold Aviva responsible for.

Aviva said it settled the third-party credit hire claim on a without prejudice basis in order to minimise costs. It said by settling it on a without prejudice basis it has left the option open for

it to reclaim these costs. I think this is fair and reasonable. It also said that not long after the accident, the third party provided an engineer's report which showed that some damage had been sustained. Aviva said the third party has yet to present a vehicle damage claim but at the time when it settled the credit hire claim it had no reason to believe that a damage claim would not follow. Overall, I think Aviva's actions based on the information it had available to it at the time, were fair and reasonable. I say this because, even though Mr B1 and Mr B2 didn't report significant damage to the third-party vehicle, the existence of some damage was supported by an expert engineer and in the absence of conflicting expert evidence this would have been difficult for Aviva to dispute. So, I think it is fair and reasonable that it tried to minimise costs as much as possible by settling the credit hire claim especially as it did so on a without prejudice basis.

Mr B1 and Mr B2 said they may have wanted to buy the claim back in order for the claim not to impact B's premium. Aviva said this is something it was open to discussing with them at the time and I think this is fair and reasonable. Bearing in mind it has now been more than a year since the accident I think Aviva should consider assessing the likelihood of receiving any further claims from the third party. And consequently, whether it is reasonable for the claim to be closed or not so that Mr B1 and Mr B2 may be able to buy it back if they still wish to do so.

Mr B1 and Mr B2 are also very unhappy about the fact that they weren't aware that Aviva proceeded to settle the claim. Aviva has accepted that the email update it sent to B's broker in June 2024 was sent to an incorrect email and has apologised for this. I think this is something that would have caused B a certain degree of inconvenience and I think Aviva's offer of £200 compensation is fair and reasonable in the circumstances.

I appreciate Mr B1 and Mr B2 may not agree, but I think that even if they had received the email, on balance, I don't think Aviva would have been able to handle the matter differently. Aviva was already aware of the circumstances of the claim and felt it had no option but to deal with the third party claim. Mr B1 and Mr B2 may have disagreed with Aviva's decision to settle the credit hire claim but as I said above, Aviva can take over and settle the claim under the terms of its policy. And I don't think it was acting unfairly or unreasonably when it paid the credit hire claim on a without prejudice basis as it did so in order to minimise costs. Mr B1 and Mr B2 said they may have settled the matter privately but bearing in mind the third party made a claim through their insurer to Aviva, I think it's unlikely this option would have been open to them in any event.

Mr B1 and Mr B2 said that the fact that they and the driver weren't aware of the settlement could have seriously impacted the driver's own insurance policy as they wouldn't have been able to inform their own insurer. This isn't something I can consider here as this is a complaint brought by B- the policyholder- and not any other party.

Overall, I think Aviva's decision to settle the third party claim was fair and reasonable. And I think its offer of £200 is also fair and reasonable bearing in mind the inconvenience it caused B due to its poor communication. I appreciate Mr B1 and Mr B2 may have also suffered some distress and inconvenience but as B is the policyholder and not them, this isn't something I can award them separate compensation for.

My final decision

Aviva Insurance Limited has already made an offer to pay £200 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Aviva Insurance Limited should pay B £200 if it hasn't already.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 19 November 2025.

Anastasia Serdari
Ombudsman