

The complaint

Mr T complains Aviva Insurance Limited (Aviva) unfairly recorded a claim on his motor insurance policy as joint liability.

What happened

Mr T was involved in a collision on 4 May 2025 with a third-party car. He reported it to Aviva and provided evidence, which included photographs, a map of the location of the accident and a diagram showing the impact point and the positions of both cars. He said the third-party was liable for the incident. He said liability for the collision was that of the third-party.

The third-party insurer disputed liability and after reviewing the evidence available Aviva decided to accept 50/50 split liability.

Mr T disagreed with this and said this was unfair and inconsistent with the evidence available.

Because Mr T was not happy with Aviva he brought the complaint to our service.

Our investigator didn't uphold the complaint. They looked into the case and said both accounts of the accident conflict with each other and in the absence of evidence of the accident as it happened, they believed Aviva had fairly handled the claim and the 50/50 fault outcome was suitable.

As Mr T is unhappy with our investigator's view the complaint has been brought to me for a final decision to be made.

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.

It's important that I make it clear that it's not my role to decide who's at fault for an accident, as ultimately that's a matter for the courts.

Most motor insurance policies contain a term which allows the insurer to handle the claim how it sees fit. We don't expect this to be highlighted by the insurer, as it's neither significant nor unusual and is a feature of all motor insurance policies. This term essentially gives the insurer a contractual right to settle the claim how it chooses. It doesn't need the agreement or consent of Mr T to decide how to settle a claim and it may make a decision that Mr T doesn't agree with.

In the terms and conditions of Mr T's policy it says;

"If we want to, we can take over and conduct in your name or that of the person claiming under the policy the defence or settlement of any claim or take proceedings for our own benefit to recover any payment we have made under this policy.

We shall have full discretion in the conduct of any proceedings or the settlement of any

claim.”

However, just because the term is in the policy, we don't think it's fair and reasonable for the insurer to simply do as it pleases. The decision must be based on facts and evidence. Therefore, I'll look to see that it made its decision reasonably.

I looked at the evidence available and how Aviva considered this to make its decision to accept joint liability. I saw it was provided with evidence that included images of the damage to the cars, video footage directly after the collision, maps of the location, diagrams of the incident, and a witness statement from the passenger in Mr T's car.

Mr T said the impact was a rear end impact and therefore liability should rest with the third-party. Aviva said the damage to both vehicles was to the back and side and not directly the rear. The images provided to our service shows damage to the back and side back corner of Mr T's car.

Mr T's wife who was a passenger in the car provided a witness statement. Aviva said this wouldn't hold as an *independent* witness statement and the third-party wouldn't accept it because the witness was a relative of Mr T.

Mr T told Aviva he had dashcam footage of the accident. When provided it was found this was actually a recording from a mobile phone showing the situation shortly after the collision and it didn't show the collision itself. When Aviva became aware there was no dashcam footage of the actual impact it did try and obtain alternative CCTV footage from the council. Due to this delay in requesting this evidence it said it would allow his no claims discount. I think this was a fair offer. It was subsequently found that there wasn't a camera that pointed at the accident location, so there was no CCTV that couldn't have supported either party's version of events.

I understand Mr T said the third-party verbally admitted fault at the scene of the accident, however when contact was made by the third-party insurer, blame was placed with Mr T.

In this case Aviva said after looking at the above evidence and both Mr T's and the third party's version of events, of which both are holding each other at fault for changing lanes, and because there is no footage of the actual incident, the best outcome for liability was a 50/50 split.

I recognise that Mr T obtained independent advice that concludes his claim held a reasonable prospect of successfully beating a 50/50 stance, however based on the evidence available to me, I think Aviva has completed a fair and reasonable investigation and I'm persuaded it made a reasonable decision to accept 50/50 joint liability for the claim. And this is supported under the terms of the policy which say Aviva has the contractual right to settle the claim how it chooses.

Therefore, although I understand Mr T will be disappointed, I don't uphold his complaint and don't require Aviva to do anything further in this case.

My final decision

For the reasons I have given I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 12 February 2026.

Sally-Ann Harding
Ombudsman