

complaint

Ms B complains that Aviva Insurance Limited misled her into thinking that, after her car was damaged in an accident, the only outlay she would have would be the £150 excess on her motor insurance policy.

background

Ms B's left her car parked near her workplace when another car hit it. A witness saw the incident and left a note on Ms B's car which included the registration number of the other vehicle. Ms B phoned Aviva to report the accident. She says she was led to believe that the only expense would be the cost of the excess of £150. In fact her no claims discount (NCD) and cost of her premium were affected when the third party denied any involvement. Aviva offered Ms B £50 compensation but she didn't think this was enough. So she brought her complaint to us.

The adjudicator recommended that the complaint should be upheld. She said that Aviva didn't explain to Ms B what would happen if the driver denied liability. She was also concerned that Aviva had failed to conduct a proper investigation of the claim. She recommended that Aviva should repay Ms B's excess and pay her £250 for the distress and inconvenience caused by the way in which the claim was handled.

Aviva failed to respond to the adjudicator's recommendation so she referred the complaint to me to make a final decision. In its most recent email Aviva says it has asked its solicitor to comment on whether it could have done more to investigate the claim.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The repairs to Ms B's car cost about £400. This is a relatively modest amount. I agree with the adjudicator that Aviva should have given Ms B the opportunity to make an informed decision about whether she wanted to pay for them herself and preserve her NCD and avoid any increase in the cost of her premium. But when Ms B phoned to report the incident the adviser didn't explain what would happen if the third party denied liability. As the party hadn't stopped at the scene of the accident I consider it was foreseeable that liability wouldn't be readily accepted.

This failure to give Ms B full information at the outset was compounded by the way in which Aviva investigated the claim. It would have been open to Aviva to ask to inspect the third party vehicle. This in itself may have been enough to obtain an admission of liability. Alternatively it may have provided a sound basis for deciding whether to pursue the claim further.

Ms B also complains that her personal data may have been passed on to claims management companies who have repeatedly phoned her about a pursuing a personal injury claim. This clearly needs to be investigated, but falls outside the remit of this service and can be more appropriately pursued either through the Office of the Information Commissioner or the police.

Aviva's failure to handle Ms B's claim in a timely and effective manner unfortunately continued after she brought her complaint to us. Its failure to respond to our requests for information has added significantly to the time that Ms B has had to wait for the outcome of her complaint. It is not clear to me what further advice Aviva's solicitor could give which would affect the outcome. Aviva's decision not to pursue the third party further means that there hasn't been an effective investigation which could form the subject of a legal review. I find that the way in which Aviva dealt with Ms B's claim has fallen below an acceptable standard of customer service.

my final decision

I uphold the complaint. I require Aviva Insurance Limited to:

- Refund Ms B's excess of £150;
- Pay Ms B £200 in addition to the £50 it has already paid to compensate her for the distress and inconvenience she has suffered.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms B to accept or reject my decision before 2 March 2015.

Melanie McDonald
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