

complaint

Mr W complains about Aviva Insurance Limited's handling of his motor insurance claim and the value it paid for his car after it was declared a total loss.

background

Mr W was involved in an accident with a lorry. He said that he was not at fault. He called his broker to report the accident and was put through to solicitors as he said he was not at fault. The third party was also insured with Aviva (through its commercial department) and the liability aspect was settled on a 50/50 basis.

Mr W's main issues of complaint are;

- Aviva failed to secure CCTV evidence,
- Aviva has not refunded half of his excess,
- Aviva undervalued his car, and
- Aviva's general handling of his claim

Aviva says that it has paid a fair market value for the vehicle making appropriate deductions for pre-accident damage, Mr W keeping the vehicle and the policy excess. Aviva does not accept responsibility for failing to obtain the CCTV as it was only kept for 10 days and Aviva was not informed of the accident until after this period.

The adjudicator explained his view that Aviva had paid a fair value for the vehicle, that the decision to settle liability on a 50/50 split was reasonable and that Aviva was not responsible for the failure to secure CCTV evidence. He said that Aviva only became aware of the accident about 15 days after the accident, and on requesting the CCTV from the Highways Agency Aviva was told that no footage was available because more than 10 days had passed.

Mr W does not agree with the adjudicator. He feels Aviva's deductions for pre-accident damage are unfair, that Aviva knew of the accident shortly after the incident and had a duty to get the CCTV and that Aviva's overall handling of his claim was poor. He also points out that he has not received half of his excess.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Mr W has submitted a substantial amount of information and documentation for which I will address the main issues.

The first issue I will deal with is that of the CCTV. Mr W says that he contacted his broker and provided lengthy details about his accident. He says he told the broker that it needed to get the CCTV. He was put through to a firm of solicitors who contacted the third party insurer about the accident. In collecting the information the broker was acting for Mr W and not his insurer. Whilst the third party insurer was also Aviva, notification was dealt with in keeping with third party insurer processes. By this I mean that Aviva's commercial department was acting for the third party lorry driver as the intended claim was against the lorry driver rather than Mr W. And I am not satisfied that the commercial part of Aviva, acting as third party insurer, had notified the personal line part of Aviva of a potential disputed claim in the initial stages. In Mr W's first call with his insurer the representative indicated that another 'claims system' had to be opened. If the personal lines department had been informed of the

incident I am of the view that the representative would have said so, but he did not and had to open a 'second system' to find out about the incident.

The solicitors acting for Mr W would (or certainly should) have been aware that it was acting for Mr W and not his insurer. And indeed the solicitors knew (or at least should have known) that Mr W's 'claim' was not being made under his insurance policy. Whether this was explained to Mr W is a matter to be taken up with the solicitors. As the solicitors were acting for Mr W it was a matter for them as to what evidence they deemed necessary to demonstrate the third party driver was at fault, and that includes the relevance of CCTV.

When Mr W notified his insurer of the incident it was after the 10 day retention period that the Highway's Agency had as part of its process. Therefore, I am satisfied that Mr W's insurer was not responsible for the failure to secure the CCTV.

Mr W has said that the relationships between the broker, solicitors, Aviva (his personal insurer) and Aviva Commercial (the third party insurer) are confusing. I have some sympathy with Mr W and it is for this reason that we expect brokers to give clear information to consumers about the claim process when contacted. Clear information should include letting a consumer know whether a claim is being made under an insurance policy or not. This is not something that I can deal with in this decision rather Mr W will need to speak with his broker about this aspect in the first place, if he feels he was given inadequate information.

The next issue to deal with is the valuation of Mr W's car. We have a long-standing approach to this which is to use the motor trade guides, and these reflect independent sales data for particular cars at a particular time. In this case I am satisfied that Aviva's start point of £2,500.00 is fair. Two of the three guides we use returned values, one slightly above and one slightly below Aviva's offer. I have not taken into account Mr W's personal registration plate as he retained this.

Aviva deducted £1,000.00 for pre-accident damage. The estimated repair needs and costs used by Aviva is an industry norm via an industry recognised software programme. The damage has been accepted by Mr W but not the amount. Aviva has provided details of the full cost of the repair and then applied a reduction of approximately 50% given the age of Mr W's car. I am satisfied that this is a fair approach even though Mr W says he could get the repair done more cheaply.

As Mr W retained his vehicle Aviva deducted £390.00 which in my view is a fair amount as had Aviva kept the car it would have been able to sell the salvage.

The half excess and personal injury issues are classified as 'uninsured losses', which are not covered under Mr W's motor insurance policy. Under the 50/50 split liability settlement Mr W was entitled to receive half of his excess, which amounted to £135.00, from the lorry driver's insurer. He says that he has not received this. I have seen details of the settlement of the claim sent to Mr W's solicitor and this included £135 relating to half of Mr W's excess. I am satisfied that Mr W has received the proportion of excess he should have and he can clarify this with his solicitor too as it received the funds on his behalf.

Mr W received a cheque from Aviva acting as his insurer for £840 and I am satisfied this is fair. The calculation being as follows;

- Stating value of car = £2,500
- Deduction for damage = £1,000

- Deduction for salvage = £390
- Deduction of policy excess = £270 (half of this was returned via Mr W's solicitor)
- Total due to Mr W = £840

In all the circumstances I am satisfied that Mr W received what he was entitled to from Aviva acting as his insurer, and that Aviva acted fairly and reasonably.

my final decision

My final decision is that I do not uphold this complaint.

Sean Hamilton
ombudsman