

complaint

Mr D complains about the way Aviva Insurance Limited has handled and settled a claim on his motor insurance policy.

background

Mr D was involved in an accident. Liability was disputed and both parties blamed the other. Aviva investigated matters and there were no independent witnesses or CCTV footage. It decided to settle the claim on a 50/50 split liability basis. Its notes suggest it did so on a without prejudice basis.

Mr D is unhappy with Aviva's service and the way it's handled matters. He also says it hasn't properly represented him. It's unfair that he's being held partly to blame. The other driver had accepted liability.

Our adjudicator recommended that this complaint shouldn't be upheld. He considered that Aviva had acted reasonably when investigating the accident. Its decision to settle the claim on a 50/50 split liability basis was taken after its investigation and discussions with those involved.

Mr D doesn't agree and has asked for an ombudsman review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I agree with the adjudicator's conclusions for broadly the same reasons.

As the adjudicator has said it's not our role to determine who is liable for a collision – that is best dealt with by a court. But we can look at how an insurer has reached its decision and whether the decision was fair and reasonable in the context of the claim.

Under the terms of the policy Aviva is entitled to defend and settle a claim as it sees fit. It also doesn't need Mr D's approval of any decision to admit liability, settle a claim or make a payment to a third party.

I think Aviva has investigated matters appropriately. I note Mr D says the other party accepted liability. But there were no independent witnesses or CCTV footage.

Mr D may disagree with Aviva's interpretation of the evidence and its reasoning and/or decision to settle the claim on a 50/50 basis but I don't think it's exercised its discretion unfairly or unreasonably when deciding to settle the case as it has done.

It appears Aviva may have settled the claim on a without prejudice basis. If so this preserves Mr D's rights to take action against the other party himself if he wishes to do so.

Overall, I don't think Aviva's failed to comply with the policy terms or has exercised its discretion unfairly by proceeding as it has. Although I recognise Mr D's strength of feeling and frustration, I don't think it's done anything wrong. And I don't see a compelling reason to change the proposed outcome in this case.

my final decision

For the reasons I've discussed above my decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 9 November 2015.

Stephen Cooper
ombudsman