## complaint

Miss R's unhappy that Aviva Insurance Limited applied a £250 non approved repairer excess for using her own garage rather than its approved repairer in a claim on her motor insurance policy.

## background

Miss R had an accident. She wanted the car repaired by a manufacturer approved garage not at Aviva's approved repairer. So, Aviva applied its non approved repairer excess of £250. Miss R's unhappy about this.

Our adjudicator noted that we aren't a legal body and can't make a "legal decision". That's for a court to do. But we can look at the fairness of the excess. He couldn't say that it was unfair of Aviva to apply the non approved repairer excess particularly as it's mentioned in the policy schedule. We also can't say whether exactly £250 is justified or not. But it doesn't seem particularly unreasonable. We aren't the industry regulator. That's the Financial Conduct Authority. In this case this excess is clear and there's no dispute about the reason for it being applied. So, the adjudicator felt this complaint shouldn't be upheld.

Miss R doesn't agree. She says this is a penalty clause and it's unlawful. A £250 fee is unfair and Aviva's not justified it. The repair costs are being recovered from the third party so Aviva isn't paying them. An industry standard fee isn't necessarily reasonable.

## 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.

Miss R remains unhappy about Aviva's calculation and application of the non approved repairer excess of £250. But general issues about how the insurance industry works are a matter for the Financial Conduct Authority. She also says this is a penalty clause and the excess is unfair and unlawful. But that's a matter for a court to determine, not us.

If Miss R was unhappy with the non approved repairer excess shown in the policy schedule she was free to query it at any time or to seek insurance elsewhere if she'd wanted to. She could also have avoided this excess by getting the repairs done at an Aviva approved repairer. Though not dealer approved Aviva says its approved repairer would've given a lifetime guarantee on all workmanship on the parts fitted during the repair.

Overall, although I recognise Miss R's frustration, I don't see a compelling reason to change the proposed outcome in this case.

## my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss R to accept or reject my decision before 15 February 2016.

Stephen Cooper
**ombudsman**