

The complaint

Mr D is unhappy Aviva Insurance Limited (Aviva) declined his claim after his electric bike was stolen, because of this he feels the policy was mis-sold.

What happened

On 2 October 2020 Mr D purchased insurance for his electric bike online. Around a few weeks later the bike was stolen so Mr D contacted Aviva to make a claim. Aviva assessed the claim but declined it as they said the bike was an electric motorcycle and not a bicycle under the terms of the policy – and so, wasn't covered.

Mr D complained to Aviva. He said they were aware of the details of the bike at the time he purchased the policy and still allowed him to purchase it, so they should re-consider the claim.

Aviva explained that Mr D was presented with the policy booklet online at the time of the sale to review and accept the terms before purchasing. They directed Mr D to the relevant parts of the policy, such as the definition of a bicycle, and explained why Mr D's bike didn't fit the definition.

Mr D referred his concerns to this service. Our investigator didn't feel Aviva had mis-sold the policy but felt as Mr D was never covered and there wasn't any risk, it was fair for Aviva to refund the premium he paid. Aviva agreed to refund the premium, but Mr D remained unhappy so asked for an ombudsman's decision.

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.

Aviva should handle claims promptly and fairly. And, they shouldn't reject a claim unreasonably. I've considered this when coming to my decision.

During the online application process Mr D was asked to review the terms of business and insurance booklet (policy) before purchasing, to ensure it met his needs. And he had to tick the box to confirm he accepted the terms.

The policy states that Aviva will provide the cover set out in the policy and that the insured must comply with all the terms and conditions set out in the policy.

As the policy was purchased online and therefore non-advised, it was Mr D's responsibility to review the policy documents to ensure it covered him. Mr D thought that because Aviva accepted the purchase, his bike was covered. But that isn't the case and Aviva did make it clear, before purchase, that Mr D should read the appropriate documents to ensure it met his needs. I also note there was also a 14-day cooling off period where Mr D could have cancelled the policy if the policy didn't suit his requirements.

The policy is designed to cover bicycles and the terms of the policy clearly states the definition of a bicycle to be:

Any bicycle plus fixed items such as electric bike batteries, aftermarket pedals or lights. Which are your property and for which you are legally responsible. Including tricycle, tandem, trailer cycle, recumbent tricycle or push scooter. The bicycle/scooter must be driven by human pedal power or electric battery with an output not exceeding 250w / 15.5mph.

It does not include any electric bicycle or scooter where the power or speed requires it to be registered, insured or taxed as a motor vehicle.

The government have information on their website about the classification of electric bikes. It refers to *electrically assisted pedal cycles (EAPC)*, which you do not need to register, tax or insure. To be counted as an EAPC it has to have pedals that can be used to propel it, have a maximum power output of 250 watts and a top speed of 15.5mph or less.

It also states that any electric bike that does not meet the EAPC rules is classed as a motorcycle or moped and needs to be registered and taxed.

The policy documents were clear about what is defined as a bicycle. Mr D's bike has an on-road and off-road version. Whilst I'm not certain what type it is, both versions are not operated by pedal and from what I have found have a maximum speed of between 30 – 45mph. This is clearly over the 15.5mph limit defined in the policy. So, I'm satisfied Aviva haven't declined the claim unfairly. And I can understand why they've deemed the bike a motorcycle.

After we looked into the complaint, Aviva agreed to refund the premium Mr D paid. Given that Mr D was never covered under the policy as his bike isn't deemed a bicycle under the policy terms. I think this was fair in the circumstances.

Mr D's representative said documents must be fair and not mis-leading and I don't disagree. However, I haven't found that the policy documents were mis-leading.

And I don't think it's reasonable to expect the website to recognise where a bike may or may not be covered based on the description entered by the customer. It's clearly not practical for Aviva to list every type and make of bicycle and motorcycle in their policy documents or to write an algorithm so that their on-line customer interface recognises whether a bike is covered or not. There are very many different types and makes of bike – and new types and makes appear with some regularity.

I can understand that Mr D may have felt that once his bike details were entered into the system that automatically meant his bike was one that would be covered. But the policy terms were presented for Mr D to read and accept prior to purchase. These were clear about what was covered under the policy. And Mr D's bike did not fit the definition of a bicycle within the policy.

In summary, I don't think Aviva acted unfairly in declining the claim. The policy terms were clear, and it was Mr D's responsibility to have checked them. Aviva agreed to refund the premium Mr D paid given that he wasn't covered, and I think this was fair in the circumstances.

Putting things right

If they haven't done so already, Aviva should refund Mr D's policy premium. He was never

covered by the policy and never could have derived any benefit from it. On that basis, I'm upholding Mr D's complaint, because Aviva didn't offer to refund the premium before we became involved.

But apart from that, I'm not going to ask them to do anything else to resolve Mr D's complaint. Their decision to decline the claim was fair and reasonable and they didn't mis-sell the policy to Mr D.

My final decision

For the reasons set out above, I'm upholding Mr D's complaint.

Aviva Insurance Limited must pay Mr D £69.00, if they haven't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 1 June 2021.

Neil Marshall
Ombudsman