

The complaint

Mr and Mrs H complained that Aviva Insurance Limited (“Aviva”) unfairly handled his claim under his motor policy and Aviva’s contractors took too long to repair his vehicle and caused damage in doing so.

What happened

Mr and Mrs H made a claim after a van pulled out without warning and collided with Mr H’s vehicle. The van driver himself was reacting to a lorry that pulled out in front of him. Mr and Mrs H said the van driver verbally accepted liability at the scene for causing the damage to his vehicle.

Mr and Mrs H raised several issues with the way the claim progressed. Mr and Mrs H were unhappy Aviva chose not to pursue the claim. It meant it was recorded as a “fault” accident for Mr H, resulting in non-recovery of the £500 excess he’d paid and a likely increase to his future insurance premiums. Mr and Mrs H didn’t think this was fair.

Aviva took independent advice on whether it could recover the costs of the repairs from the other parties involved in the incident. As the advice was negative, Aviva said it was restricted in how it could proceed with the claim, which led to the actions it took.

Mr and Mrs H thought the repairs to their vehicle took too long and was unhappy Mr H wasn’t provided with a courtesy car, so he had outgoings himself for renting a car. The garage scratched Mr and Mrs H’s car when it was in for repair, which it repaired when Mr and Mrs H pointed it out. Mr and Mrs H has said the garage also damaged the car radio.

Aviva didn’t think the repairs took an excessive amount of time. It didn’t provide a car as it said Mr and Mrs H wasn’t entitled to one under the policy. Aviva didn’t think it had damaged Mr and Mrs H’s radio. However, Aviva did offer £175 in compensation for not setting better expectations as to how long the work would take and for any poor service it had provided.

Our investigator decided not to uphold the complaint. She thought Aviva had handled the claim fairly and in line with the terms and conditions of the policy. She thought that Aviva had been reasonable in offering compensation where its service had dipped. Mr and Mrs H disagreed, so the case has been referred to an ombudsman.

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.

Having reviewed the complaint, I won’t be upholding it. I appreciate this will be disappointing for Mr and Mrs H, but I think our investigator’s view of the case was sensible. I’ll summarise why I have reached a similar decision.

Aviva has advised that the policy allows it subrogated rights, which means it can take over the defence or settlement of any claim. I’ve checked the policy to confirm this point. This

allows Aviva to decide how to manage the claim. Most insurance policies have this right for insurers. It mitigates the risk of claims racking up large, unrecoverable costs when it's unlikely an insurer will be able to recover the costs from another party.

I appreciate Mr and Mrs H said the other party accepted liability verbally, but there is no evidence of this. Aviva do not have a written statement from the other party accepting liability. Aviva appointed an independent liability expert to review the claim and it advised Aviva that it was unlikely to be able to recover the costs. Based on this advice, I think Aviva have been reasonable in not incurring additional costs that would likely be unrecoverable.

Unfortunately, this does mean the accident gets recorded as Mr H's "fault" as Aviva hasn't been able to recover the costs, so in these circumstances Aviva wouldn't need to refund the excess Mr and Mrs H paid as the terms and conditions set this out. Mr and Mrs H would need to inform future insurers of this claim information. I appreciate Mr and Mrs H will feel hard done by, but Aviva has acted in the same way any insurer in the industry is likely to have acted in these circumstances. It has followed normal industry process.

Mr and Mrs H is unhappy with the length of time his car was in the garage for repairs. I've reviewed the timeline provided by Aviva. I can see the period was longer due to Christmas, when the garage was closed for part of the time. Due to a need to validate some of the damage with the car manufacturer, the timeline was also extended slightly. Whilst this isn't ideal, I think the slightly longer timescale was reasonable and has been explained by Aviva. I wouldn't expect the car to be worked on every day it was in the garage. Any claim is inconvenient for a policyholder, but it's not fair to blame Aviva for this, as it didn't cause the accident.

Mr and Mrs H weren't entitled to a courtesy car under his policy, so I don't think Aviva has done anything wrong by not providing one.

Mr and Mrs H accused Aviva's contractor of breaking his radio. The contractor didn't think it had broken the radio. I can see Aviva checked with the car manufacturer to ascertain what had caused the fault on the radio. The manufacturer confirmed it was unlikely to have been caused during the repair process. I appreciate Mr and Mrs H and the contractor have different views on when the radio broke. However, it's one person's word against another and I have no evidence to support either statement. Therefore, I won't consider this point any further.

In respect to the scratch which occurred during the repairs, Aviva has accepted this should've been dealt with faster. And it offered compensation for this along with setting better expectations on repair timescales. Having considered the compensation offered (£175), I think this is fair, and in line with our compensation framework. So, I don't uphold this complaint.

My final decision

My final decision is that I don't uphold this complaint. I don't require Aviva Insurance Limited to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 10 April 2024.

Pete Averill
Ombudsman