

## **The complaint**

Miss P and Mr T complain about Aviva Insurance Limited's handling of a claim they made under their home insurance policy after a car crashed into their house.

## **What happened**

The background to this complaint is well known to both parties, so I'll give only a brief summary here.

Miss P and Mr T have a home insurance policy underwritten by Aviva. This covers their home and its contents, amongst other things.

They made a claim after a car crashed into their property in August 2023, damaging a garden wall, the garden and the downstairs window and sill.

The driver of the vehicle was also insured by Aviva. Miss P and Mr T spent a little while contemplating whether to make a claim through their own policy or to pursue the third party for payment through his own insurance.

Once they'd decided to make a claim through their own policy, Aviva inspected the damage and put together a schedule of works for the required repairs.

Miss P and Mr T weren't happy with the way their claim had been handled and made a complaint to Aviva in September 2023.

They said the information provided by Aviva's surveyor had been unclear and misleading. They said a cash settlement offer put to them had been unexpected and surprising. They wanted their stone windowsill replaced rather than repaired. And they were unclear what was covered and what was not – including landscaping costs for the garden.

Aviva didn't uphold the complaint. They said the information provided to Miss P and Mr T had been clear, the cash settlement offer was explained in full, the windowsill could be repaired, and the schedule of works made it clear what damage was covered and what was not.

Miss P and Mr T weren't happy with this and brought their complaint to us. They said they were also unhappy with the delay in the settlement of the claim. And they thought they shouldn't be asked to pay the excess in relation to an accident which had not been their fault.

Our investigator looked into it and didn't think Aviva had done anything wrong. Miss P and Mr T disagreed and asked for a final decision from 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.

The rules which govern the way our service operates – the Financial Conduct Authority's dispute resolution (or DISP) rules – allow us to look into only those things which Miss P and Mr T raised in their complaint to Aviva.

However, it may be worth me saying here that the complaint points added by Miss P and Mr T when they complained to us – about the excess and the delays – shouldn't be upheld in any case.

I can't see that Aviva have caused any significant unnecessary delays in their handling of the claim. The schedule of works followed reasonably promptly after Miss P and Mr T decided to make a claim.

Since then, there may have been a lot of back and forth between Miss P and Mr T and Aviva – about what should and should not be covered and about whether repairs or replacement are necessary – but Miss P and Mr T's queries and arguments have been answered reasonably quickly and clearly.

In terms of the excess, this is clearly set out in the policy terms and conditions. When a customer buys a policy, they agree to pay an excess of a certain amount for every claim that's made. To put it crudely, all other things being equal, the higher the excess (the cost the customer is willing to bear themselves when they make a claim), the cheaper the policy.

As is absolutely clear in the policy terms, excesses are applied for every claim, whether or not the policyholder was at fault or to blame. At times, Mr T has appeared to suggest that because the driver of the vehicle was insured by Aviva, he should not have to pay the excess in relation to this claim.

Mr T is entitled to ask the driver (and therefore the driver's insurer) to cover any losses resulting from the accident which are not covered by his own insurance – including the excess. But that's not something that his own insurer is obliged to be involved in (whether or not they happen to also insure the third party).

Turning to the complaint points Miss P and Mr T *did* raise with Aviva, I agree with our investigator that these shouldn't be upheld. I'll explain why.

I'm satisfied that Aviva and/or their agents have tried to explain the situation – and Miss P and Mr T's options – to them. And that they've answered Miss P and Mr T's queries, questions and objections in a timely and comprehensive manner.

I understand that this is a relatively complex situation given that Aviva insure both parties. And I understand why Miss P and Mr T may have been unclear about the best way to proceed in those circumstances.

But I think Aviva have attempted to explain things to Miss P and Mr T and been clear about their options. In short, it's not Aviva's fault that there were different options for Miss P and Mr T about how they could recoup their losses from an accident which was absolutely not their fault in any way. And, on balance, I think Aviva supported Miss P and Mr T by making the position clear to them and responding to their queries.

Miss P and Mr T have asked a stonemason for an opinion on their windowsill. His view is that the sill should be replaced because any repair will in essence weaken the window surround as a whole and ultimately fail.

Aviva have asked two building contractors to inspect the damage and propose a solution. Both believe the sill can be repaired using a combination of metal bars and resin.

Although there are clearly different opinions about the best and most reliable and lasting option here, it's not unreasonable in all the circumstances for Aviva to trust their potential contractors' views about the repair option. Aviva have checked the first contractor's view and obtained a second opinion.

I'm aware Miss P and Mr T were concerned that one contractor would offer only a year's guarantee on the repair work, but I don't think that necessarily reflects the contractor's view of how long and lasting the repairs are likely to be. And if the repairs were to fail at some point after that year of guarantee, I would expect Aviva to accept that the damage was still part of the original claim and consider – and pay for - other options.

In response to our investigator's view on this case, Mr T said he was unhappy with the way the insurance industry worked claims like his. His view is that if he wasn't responsible for the accident, he shouldn't be regarded as making a claim – and so the policy terms and conditions, such as the excess, should not apply.

It's my job to say whether Aviva have acted unfairly or unreasonably towards Miss P and Mr T in the way they've handled this claim. I'm satisfied they haven't. They've treated Miss P and Mr T in the same way they would deal with other customers and followed standard industry practices and guidelines.

If Mr T objects to that standard industry practice and/or guidelines he can make his views known to the Financial Conduct Authority (FCA), the regulator of financial businesses. It's part of the FCA's role to set standards for financial businesses and to guide them as regards best practice.

What I can say, in making this decision, is that I'm satisfied Aviva have acted fairly and reasonably – and in line with existing industry standards and norms - in handling Miss P and Mr T's claim.

The option was open to Miss P and Mr T to pursue the third party and his insurer for their losses and damages – and not make a claim through their own policy. I understand they considered that option for a while at the outset but decided against it. Having then made a claim under their own insurance policy, they shouldn't be surprised if Aviva apply the terms and conditions set out in that policy.

I understand Aviva have now made a cash settlement offer to Miss P and Mr T, which they've accepted subject to Aviva accepting any outcome from our consideration of their complaint. Both parties will understand that it's not for me to comment on that settlement offer now, given that it's only been made since this case was referred to me for a final decision.

### **My final decision**

For the reasons set out above, I don't uphold Miss P and Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P and Mr T to accept or reject my decision before 15 May 2024.

Neil Marshall  
**Ombudsman**