

The complaint

Mr and Mrs P are unhappy with the way Aviva Insurance Limited (Aviva) settled a claim following a motor accident.

What happened

Mrs P is a named driver on her husband, Mr P's, motor insurance policy. In April 2023, she was unfortunately involved in a collision with another car. In the first instance, Aviva gathered all the relevant information and disputed liability, however, as the third party felt Mrs P was at fault the claim was progressed to an independent arbitrator to reach a liability decision.

The arbitrator concluded the claim should be settled on a 50/50 basis, and Aviva informed Mr and Mrs P of this decision. In response, they said they didn't think the outcome was fair and Aviva should have done more to help them. They also complained about the updates they received throughout the claim.

Aviva didn't uphold the complaint, so an investigator at this service considered it. She thought Aviva should have reasonably provided Mr and Mrs P with more updates throughout the claim and said £100 compensation would be a fair amount to reflect this. However, she didn't think Aviva had done anything wrong in relation to the way the claim was settled.

Aviva accepted the investigator's opinion, but Mr and Mrs P didn't. In summary, they said the liability outcome was clearly wrong and Aviva must have let them down when presenting the claim for arbitration. They let Aviva know they would have been happy to attend court or represent themselves if liability remained disputed, so they should have been given that opportunity.

The investigator's opinion remained the same, so I've now considered the complaint afresh.

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.

It isn't my place to decide who is actually liable for the accident at the heart of this complaint. I can see that decision has already been made by an independent arbitrator. However, I have considered if Aviva applied the terms and conditions of the policy reasonably and whether they dealt with the claim fairly.

Under the terms of the policy, Aviva can independently decide how to progress and settle a claim. This might mean Aviva makes a decision that Mr and Mrs P disagree with, as has happened here. I don't find this unusual or surprising as most motor insurance policies allow insurers to consider claims in this way. That said, we expect an insurer to reasonably investigate a claim and consider the evidence available before settling liability.

I can see that in the first instance, Aviva asked Mrs P to provide a statement and they considered her version of events. There were no independent witnesses they could contact or CCTV footage to review, but they did invite Mrs P to send them photographs from the scene. So, I'm satisfied they did everything I'd reasonably expect to fairly investigate the claim and locate any relevant evidence.

Following this, Aviva asked the third party insurer to accept liability. However, as they didn't agree and said Mrs P was at fault the matter remained disputed. Both sides then agreed for the claim to be considered by an independent arbitrator. Under the policy terms, Aviva were able to make that decision independently and they didn't need Mr and Mrs P's consent. I'm also mindful that liability disputes that are resolved via arbitration usually take less time and involve less costs than if they are referred to court. Everything considered, I therefore don't think Aviva did anything wrong by deciding to resolve the matter in this way.

I also see no grounds for concluding Aviva let Mr and Mrs P down in terms of the way they presented the claim to the arbitrator, or that they should have been given the opportunity to represent themselves personally. I can see the arbitrator's decision was based on a review of all the documentary evidence that was provided by both insurers. Aviva said the third party should take full responsibility for the accident, but the arbitrator reached a different conclusion. Specifically, he thought the arguments presented by both sides were credible and having considered all the available evidence a 50/50 liability split was the fairest outcome.

I know Mr and Mrs P feel strongly that the arbitrator's decision wasn't right, but it was binding on both insurers, and I'm satisfied Aviva did everything I'd reasonably expect to try and secure the best possible outcome. I can also see that Aviva have already explained that the claim was settled on a without prejudice basis. So, this means Mr and Mrs P are free to independently pursue their uninsured losses through the court system should they wish to do so.

Aviva have now acknowledged they should have reasonably provided more updates throughout the claim. I agree and think the £100 compensation, the investigator suggested is a fair way to put this right. In reaching this conclusion, I've carefully considered the distress and inconvenience Mr and Mrs P experienced and the impact of the poor communication. Aviva have already agreed to pay this compensation and I don't require them to do anything else.

My final decision

I uphold this complaint and direct Aviva Insurance Limited to pay Mr and Mrs P £100 compensation in total.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P and Mrs P to accept or reject my decision before 28 April 2024.

Claire Greene
Ombudsman