

## **The complaint**

Mr C complains Aviva Insurance Limited declined a claim he made under his motor insurance policy.

Aviva, as the underwriter of the insurance contract, is responsible for this complaint as it relates to a claim against the policy.

## **What happened**

The details of the claim are well known to both parties, so I won't repeat them again here. Instead, I'll summarise the background and focus on the reasons for my decision.

Mr C's car was stolen around 12 March. He made a claim on his motor insurance policy with Aviva. Aviva declined his claim as Mr C's son (who I'll refer to as D in this decision) was the last person to drive the car before it was stolen, and D wasn't a named driver.

Mr C complained about this to Aviva raising three key reasons why its decision wasn't fair.

1. Had the exclusion Aviva is seeking to rely on been made clear when Mr C took out the policy, he would've added D to the policy as a named driver, as he's done in the three years before. But this wasn't pointed out in the online sales process.
2. D having been the last person to drive the car isn't relevant to the theft occurring as it was no more likely it would've been stolen having last been driven by D as opposed to Mr C or a named driver. D had permission to drive the car – to drop off the named driver - and an insurance policy for his own vehicle.
3. Mr C understood from the policy that other drivers – not just those who are named - were covered for third party, fire and theft claims.

Aviva explained the terms of the policy in relation to other drivers and the levels of insurance cover provided by the policy for Mr C and named drivers depending on who was driving. So it didn't uphold Mr C's complaint.

Mr C wasn't happy with this, so he referred the matter to this service for an independent review. The Investigator looked into matters and thought Aviva fairly declined the claim as D isn't a named driver, so he's not covered by Mr C's policy, and he was in charge of the car when it was stolen. They didn't uphold Mr C's complaint.

Mr C disagreed and made several points, including the following, as summarised below.

- The online sales process failed to make clear that only named drivers were covered. If it had, he would've cancelled the policy or added D as a named driver.
- D had previously been included as a named driver by Mr C and would've been added again if he'd known D wouldn't otherwise be covered to drive his car.
- The exclusion relied on by Aviva is contradicted by other parts of the policy, namely the table on page 2 which gives the customer some understanding of policy coverage. He says the ticks in this table imply '*other*' drivers - someone given permission to drive your car but not named on the policy – are covered. And a

reasonable person wouldn't consider they needed to look more closely at further pages of the policy to understand this.

- The policy's use of the terms named drivers and other drivers is misleading and confusing. And there's no definition of other drivers.

The Investigator and Mr C communicated about these points but this didn't change the Investigators view. As an agreement couldn't be reached, this matter has now been passed to me for a 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.

Having done so, I must tell Mr C that I think the Investigator has reached a fair outcome here. So, I don't uphold his complaint in this matter. I'll explain why.

The starting point of any claim made under an insurance policy is the contract between the customer and the insurer - the policy document.

To decline Mr C's claim, Aviva have relied on the following exclusion which is set out in the terms and conditions of Mr C's policy with it.

*'What we won't pay for:*

*- Any accident, injury, loss or damage while any vehicle that is insured under this policy is being:*

*...*

*b. Driven by, or is in the charge of any person for the purposes of being driven who:*

*i. Is not described under the section of your certificate of motor insurance headed 'Persons or classes of persons entitled to drive'...*

At the time Mr C's car was stolen, I'm satisfied it was in D's charge. He'd recently driven and parked it close to his friend's property, intending to return to it after he'd spent the night with his friend. It was in this time it was stolen. I also note when notifying Aviva of the claim, Mr C confirmed this in answer to the question *'Who was in charge at the time of the accident'*.

Also, D wasn't a named driver on the policy, so he wasn't *'described under the section of Mr C's policy headed 'Persons or classes of persons entitled to drive' in the above exclusion'*.

It follows I'm satisfied Aviva can decline Mr C's claim based on the above exclusion.

I've gone onto consider why Mr C says this term shouldn't be applied and the claim should be paid.

Mr C says the exclusion relied on by Aviva is contradicted by other parts of the policy. But I don't see things the same way. I'm satisfied the policy is clear on the following general principles, which are common in fully comprehensive motor insurance policies.

- Mr C – as the main policyholder - is the insured driver with fully comprehensive cover under it.
- Mrs C – as the named driver – is covered to drive Mr C's vehicle but with a reduced level of cover when compared to Mr C.
- Someone who isn't the main policyholder nor a named driver, isn't insured to drive the car under this policy.

Turning to the table of contents on page 2. I consider it is just that, a table of contents. It lists what is in the following pages of the policy, with reference to the page numbers where the sections and parts listed can be found. Depending on the type of cover held, a tick is placed next to those parts of the policy which are relevant. This implies the consumer needs to check the relevant page to understand that part of the policy, including the level and type of any cover provided under it. The table shows section 2 is broken into several parts. One part is headed '*liability of other persons driving or using your car*' and refers to page 14 of the policy. Turning to page 14, the policy is clear - this section covers liability owed to third parties.

Taking everything into account, I don't consider the table of contents on page 2 can be reasonably said to be a table of terms, nor indicative of them. Neither do I agree this can reasonably be read in isolation as giving motor insurance cover to any person the policyholder gives permission to drive their car. Even so, this section doesn't provide cover for the theft of Mr C's car, even if it had been in Mr C (or a named drivers) charge.

Given there is a distinction between the treatment of named drivers and other people driving the car, I consider it reasonable for the policy to refer to both. And I don't think the fact other drivers aren't defined means the policy is unclear or should be read as covering them in the same way as the main policy holder or a named driver.

I note Mr C would like our service to ask Aviva to look into claims where their policy documents may be seen as ambiguous and unclear to assist him and other customers. This isn't something that our service can do. We look at individual complaints and, where a business has done something wrong, we ask it to take steps to put the matter right for that consumer. The Financial Conduct Authority is the party who regulates insurers and can consider the way it conducts its business more generally. So, whilst this might be something he wants to take forward with them, it's not something I can consider.

I'm not ignoring the points Mr C has raised about the online sales process. But this is a complaint against Aviva, as the underwriter, for declining Mr C's claim. If Mr C is unhappy with the sale of the policy to him, this is a separate complaint point which he'd need to raise with the business that sold the policy to him, giving it the opportunity to investigate the matter in the first instance.

I recognise Mr C will be disappointed with this outcome. But my decision ends what we – in trying to resolve his dispute with Aviva – can do for him.

### **My final decision**

For the reasons set out above, I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 27 November 2023.

Rebecca Ellis  
**Ombudsman**