

## **The complaint**

Miss P is unhappy about the way Kindertons have handled her claim for accident damage to her car.

## **What happened**

In early September 2019, Miss P was involved in a road traffic accident. She said as she was turning right to join a queue of traffic, the car in front reversed into her. She said the other driver admitted he was at fault. As she said the accident wasn't her fault Miss P was referred to Kindertons, an accident management company (AMC) to handle her claim.

Miss P said she gave Kindertons the other drivers name and address, as she hadn't got the car registration number. She said Kindertons hadn't done enough to trace and pursue her claim as they couldn't locate the other driver's insurer. And after she got the car registration number, they told her, incorrectly that the other driver wasn't insured.

She also feels they missed the opportunity to obtain CCTV evidence showing she wasn't at fault. And the other driver is now disputing liability. Miss P doesn't see why she should have to claim on her insurance policy when she hadn't caused the accident.

Kindertons said they'd tried to get the CCTV but the owner hadn't been helpful. And they weren't initially able to trace the other driver with the information Miss P had given them.

Miss P wasn't happy with Kindertons response and referred her complaint to us.

Our investigator found that Kindertons had acted reasonably in trying to obtain evidence to be able to make a claim on Miss P's behalf. But said Kindertons could have provided a better service by updating Miss P. He asked Kindertons to pay £50 to Miss P for this.

Neither Miss P or Kindertons agreed. Miss P didn't think this reflected the amount of worry and upset she had experienced. Kindertons said Miss P took away their opportunity to keep her updated by being proactive in calling them.

Both have asked for an ombudsman to decide.

## **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'm partially upholding this complaint. I'll explain why.

It isn't our role to consider who was at fault for the accident or to investigate the accident claim. But to look to see whether Kindertons has acted fairly and reasonably in handling Miss P's claim.

Kindertons, as an AMC, aim to provide their customers with a hire vehicle, if needed, and repair the damage caused to the vehicle by the accident. They would claim these costs back from the third-party insurer (TPI). When Miss P contacted Kindertons, they started to provide this service because she'd said the accident wasn't her fault as a car had reversed into her.

As part of the claims process Kindertons has a duty to mitigate costs as the TPI can refuse to pay. The TPI will act on behalf of their policyholder, and without an independent witness statement they'd rely on their policyholder's version of events.

I can see Miss P told Kindertons that she was getting a quote from her local garage as the other driver was willing to pay as he didn't want to go through his insurance. But the next day after she sent the quote to the other driver he said he wasn't at fault and wouldn't pay. She told Kindertons she would contact the police and see if she could locate any CCTV. And the police later confirmed she did contact them to report the incident that day.

On the same day Kindertons called the other driver for his version of events. But didn't get a response. Two days later they tried to get CCTV from a business near the scene of the accident. In this call they got a named contact and email address. But it wasn't until Miss P called for an update several days later that Kindertons, as they hadn't got the CCTV, made a follow up call and an email was sent.

I can understand Miss P's frustration as she feels the CCTV would have shown the accident wasn't her fault. And believes as Kindertons didn't request the CCTV straightaway this evidence was lost as the CCTV was over written. But this isn't what the business owner told Kindertons. He said their CCTV didn't cover the area in which the accident had happened. And I have no reason to doubt that. Kindertons can only act on the information given by the owner of the CCTV. So, I can't hold Kindertons responsible for not having CCTV evidence to challenge the TPI about liability.

I know Miss P thinks Kindertons could have done more to trace the other driver and progress her claim. But Kindertons didn't have the car registration number. And I can see they tried to get the other driver to give his version of events, by calling and writing to him. But he didn't respond. Kindertons also asked the police for the details, but they didn't give it to them.

Miss P did trace the car registration number herself and passed this on to Kindertons. But from Kindertons notes I can see that one digit was noted incorrectly. This might explain why when using the other drivers name, address and car registration number they didn't, at first, find a valid insurance policy.

When the TPI was found, they didn't accept liability as their policyholder said it was Miss P who had driven into him. As Kindertons handle no fault claims, once liability is disputed they couldn't arrange for Miss P's car to be repaired, as they couldn't be certain the costs would be recovered from the TPI. When this happens I'd expect an AMC to refer their customer back to their insurer. And this is what Kindertons did.

Our investigator said Kindertons should pay Miss P £50 for trouble and upset as she'd had to call Kindertons for updates. While I agree Miss P was proactive in calling Kindertons. I do think there was a delay in chasing for a response to their CCTV request, as this was only done after Miss P called.

### **Putting things right**

I can see Miss P feels very strongly about what's happened here, as she has said she wasn't to blame for the accident. But I'm satisfied Kindertons tried to get the evidence to challenge the TPI about liability. And advised Miss P correctly when this evidence couldn't be had.

I don't think there was CCTV that would have challenged the TPI's liability. But if the CCTV request had been followed up sooner by Kindertons I think a meaningful update, whether positive or negative, could have been given to Miss P preventing the need for her to call. So, I agree Kindertons should pay Miss P £50.

I understand Miss P's car is still damaged and I know this will not be the answer she is looking for. But she may be able to claim under her insurance policy. It will then be for her insurer to determine who was at fault for the damage.

### **My final decision**

I partially uphold this complaint. And ask Kindertons to pay Miss P £50.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 31 March 2020.

Anne Scarr  
**Ombudsman**