

The complaint

Mr K is unhappy with the way CIS General Insurance Limited handled a claim made under his motor insurance policy.

For ease, any reference to CIS also includes its agents.

What happened

In 2017 Mr K was involved in a car accident. Mr K reported this to CIS and gave his explanation of the incident – saying that the third party was at fault. He also informed CIS that the police attended the scene and there was an independent witness. Following this initial contact, CIS began investigating the matter and paid Mr K's claim for his vehicle. And when injury claims were made by the third parties, CIS instructed a legal agent to take over the case.

In December 2019, Mr K contacted CIS to complain about the handling of his claim. He said that the agent was settling the matter on a shared fault basis – which he didn't agree with. And he said there were delays in progressing the claim, in particular in relation to obtaining the police report and contacting the witness. Mr K said he wasn't kept updated on the case and he was now having to pay more in insurance premiums as the claim was still open and recorded as a fault against him.

CIS looked into the matter but disagreed that the outcome of the claim was incorrect. It said that the agent agreed to deal with the claim on a shared fault basis as there wasn't enough evidence to support defending this as a non-fault accident. It said that the witness information was inconsistent and so couldn't be relied upon in court. CIS also informed Mr K that claims agreed on a shared fault basis do appear as fault claims on the insurance database and as a result it may impact premiums but that this was out of its control.

And in relation to updating him on the claim, CIS said the agent had contacted Mr K several times in 2018 and it had discussed the liability situation with him. However, CIS did note that the agent had failed to contact Mr K following a call back request in December 2019 and so it offered him £20 for this inconvenience.

Unhappy with this response, Mr K brought the complaint to this service. Our investigator considered the issue but didn't find that CIS needed to do anything more. She said the policy terms give CIS the right to take over the settlement of the claim and she found that it had acted reasonably in reaching the decision it had. She did think CIS could have communicated more effectively with Mr K throughout the investigation, however, she didn't find that this had impacted him negatively as CIS had already resolved the claim for his car. And it had apologised for not contacting him as requested in late 2019.

In respect of the premium increase, our investigator told Mr K that changes to claims history can affect the premiums, however this would be for the insurer to decide and, as Mr K had changed to a new insurer, this wasn't something she could hold CIS responsible for. And she didn't think the fact the claim was still open, whilst CIS finalised the matter, made a difference to this as the claim would still be recorded as a fault on his policy.

Mr K disagreed with our investigator's view and so the matter has been passed to me 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.

We're an informal dispute resolution service, set up as a free alternative to the courts for consumers. In deciding this complaint I've focused on what I consider to be the heart of the matter rather than commenting on every issue or point made in turn. This isn't intended as a discourtesy to Mr K. Rather it reflects the informal nature of our service, its remit and my role in it.

I'm also aware that, since this accident happened in 2017 and the claim made, Mr K has raised a number of complaints about various issues. But I can only decide on the complaint that was brought to our service following the final response from CIS in January 2020.

Mr K is unhappy that CIS has accepted liability in part for the accident, albeit on a without prejudice basis. I can understand his frustration at this decision as he feels he wasn't to blame for the accident. Most motor insurance policies contain a term which allows the insurer to take over and defend or settle a claim in whatever way they believe is appropriate. This means CIS can make the decision to settle the claim without Mr K's agreement. But I need to consider if CIS investigated the claim to the level I'd expect and if its decision was fair and reasonable in the circumstances.

Mr K provided his version of events from the accident to CIS and said it was the other driver's fault. The third party disputed this, saying it was Mr K's responsibility. CIS has explained it referred the case to its legal agents who reviewed the information available, including the police report and independent witness statement. It said the information provided from the witness was inconsistent and, in their opinion, not good enough to provide a reliable defence in court. Mr K said CIS didn't contact the witness and there was a delay in getting the police report which he thinks impacted on the outcome. But CIS has said that attempts were made to contact the witness and no response was received – so it had to rely on the statement that had been provided to the third party. And even though it didn't get the police report initially, it did already have information about the accident from those at the scene, so it didn't think this made a difference.

When looking at these complaints, our role is to consider whether the insurer handled the claim in a fair and reasonable way. It isn't to determine who was liable for the accident. Having reviewed the information and evidence that was available I'm satisfied the decision made by CIS to settle the claim on a shared fault basis was reasonable and in line with the terms and conditions of the policy.

I'm aware that Mr K is also unhappy with how long it has taken to process the claim. Cases involving a third party, especially when there is a dispute over liability, can take some time to finalise. From what I have seen I'm persuaded that CIS and its agents were actively trying to bring the matter to a resolution and the timeframe hasn't affected the outcome of his case. And it is reasonable for the claim to remain open until such time as the costs are finalised with the third party. CIS has apologised for a call not being returned which Mr K had requested and provided compensation for that – I don't require CIS to do anything more.

Finally, Mr K has complained about the increase in his premiums. As explained by our investigator, if a claim is recorded as a fault this can impact how some insurers view the risk

and therefore it may lead to an increase in premium. But as I've already mentioned, I'm satisfied that CIS has reached a fair outcome and therefore the recording of a fault claim is appropriate.

My final decision

For the reasons stated above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 16 February 2021.

Jenny Giles
Ombudsman