

The complaint

Mr L has complained about U K Insurance Limited's (UKI) handling of a claim on his motor insurance policy.

Reference to UKI includes its agents.

Provisional decision

I issued a provisional decision on 15 February 2022. For ease I've copied the relevant extracts below. I said:

"What happened

Mr L was driving his car when there was an incident in which Mr L says another driver (the third party) clipped his wingmirror. Mr L didn't claim for the minor damage to his car. Some months later UKI contacted Mr L and told him that the third party's insurer had repaired the other driver's car and was claiming from his policy to cover the cost of repairing the damage. Mr L said that any damage to the third party's car was pre-existing. Mr L offered UKI the opportunity to inspect his car but also told UKI he intended to sell it soon.

UKI eventually offered to settle the other driver's claim on a 50/50 split liability basis. Mr L wasn't happy with that and brought his complaint to us. One of our investigators looked into it. She didn't think UKI had done anything wrong. Mr L didn't agree so his complaint's been passed to me to decide.

While I've been considering the complaint UKI's told us that the third party insurer has now issued proceedings to have the question of who's at fault for the incident decided in court.

What I've provisionally 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 it's likely I'll uphold it.

Mr L is clearly unhappy both with UKI's investigation into this claim and also with its offer to the third party insurer to settle the claim on a 50/50 split liability basis. But, since he made his complaint things have moved on and the question of liability, that is who's at fault for the incident and whether or not that liability should be shared, will now be decided in court. And, where a matter will be decided in a court it's not something that I can also consider separately. So I don't intend to comment about the question of liability as a court will decide that issue.

Did an accident take place?

In response to our investigator's assessment of the complaint Mr L said that no accident had happened. But Mr L's own account is that the third party's car clipped his wingmirror. That is

an accident, regardless of how minor it might have been. And given that UKI received a claim from the third party insurer it had a duty to deal with that claim.

Did UKI do enough to investigate the claim?

In this case both drivers gave completely different versions of how the incident occurred. Mr L said he was driving forwards when the third party tried to undertake him and the cars touched. The third party said the incident happened while Mr L was turning right into her lane while she was driving forwards and he hit her front driver's side wing. But there was no CCTV or independent witness evidence that could show how the accident had actually happened.

Mr L said that only his wingmirror came into contact with the third party's car. But he noticed at the time that her car had damage to its front wing. He said the third party told him that damage had happened previously. And if that was the case then it wouldn't be fair for the costs associated with repairing that to be met by a claim on Mr L's policy.

Mr L provided photos of his car which he believes show that it didn't cause the damage to the third party's car. And he also offered UKI the chance to inspect his car before it was sold. UKI didn't carry out any kind of inspection. I don't think that was fair. If the cars had come together as the third party alleged, I would have expected there to be some sign of damage, even if that was just a scuff, to Mr L's car. And, if his car didn't show any damage consistent with the claims of the third party, then I think UKI could have used that evidence in its defence of the third party's claim.

UKI said that, owing to the restrictions caused by the pandemic, at that time it wasn't sending its engineers out to inspect cars. While I wouldn't take issue with UKI wanting to ensure the safety of its staff, it's not at all clear why UKI couldn't arrange a socially distanced assessment of Mr L's car. I'm aware Mr L had told UKI he was about to sell his car, which UKI believes would have prevented such an inspection. But Mr L's said that he didn't sell his car immediately; so UKI could have had the opportunity to inspect it. And, at the very least, given that Mr L disputed causing any damage to the third party's car, I think UKI could have asked Mr L to send it detailed photos of his car. That would have allowed UKI to do a desktop inspection and compare those images with photos of damage to the third party's car to see if the two were consistent.

The third party's allegation is that Mr L's car hit hers while he was turning right and she was driving straight ahead with Mr L's car almost at a right angle to her car at the time. In those circumstances it seems most likely that any damage to Mr L's car would have been to the front bumper and/or to its passenger side front wing. So I would have expected UKI to advise Mr L to take date-stamped detailed photos of those parts of his car. And to take other images with the car's registration plate in it. But UKI didn't give Mr L that advice, in fact it didn't consider any form of inspection whatsoever.

Mr L did send UKI some photos of his car. Those are of the passenger side of his car, and only show a very small mark on the wingmirror. But, as far as I'm aware, Mr L doesn't have images of the front of his car or of the part of the wing in front of the passenger side front wheel. And without those images the third party insurer might argue that the photos Mr L's sent in don't show that the accident didn't take place as its policyholder has said.

I'll add that UKI has said on more than one occasion that it had no reason to inspect Mr L's car because the damage wasn't disputed. But that is simply wrong. Mr L said from the outset that the only damage he'd seen to the third party's car was pre-existing. So he was clearly disputing that the accident did the damage that the third party was claiming for. And in those circumstances, as I've indicated above, I think UKI should have done some form of

consistency report to establish if the two cars came together as the third party alleged. But given that UKI didn't do that inspection we can't now know, with any certainty, what an inspection of that nature would have revealed. But Mr L might well believe that his chances in court are weaker because of the lack of a consistency report. To address his distress and inconvenience resulting from that I think UKI should pay him £500 compensation."

Neither UKI nor Mr L provided any further comment.

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.

As neither UKI nor Mr L objected to my provisional decision I see no reason to depart from it.

My final decision

For the reasons set out above I uphold this complaint. I require U K Insurance Limited to pay Mr L £500 compensation for his distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 30 March 2022.

Joe Scott
Ombudsman