

The complaint

Mr M is unhappy as to how Liverpool Victoria Insurance Company Limited (LV) has settled a third-party claim under his car insurance policy.

What happened

Mr M has a car insurance policy with LV.

In November 2021 Mr M was in a car accident with a third-party. Mr W was reversing out of a parking space whilst a third-party was also manoeuvring, and there was an impact between the two vehicles.

LV settled the third-party claim. They said, based on their experience of these types of accident, they would be unlikely to be able to defend the claim if it went to court, so they settled it.

Mr M disagreed with LV's decision and approached this service. He said he wanted this service to decide who was responsible for the accident.

Our investigator said it wasn't the role of this service to decide who was responsible for an accident. Instead, she said we'd consider how the insurer reached their decision, and if that was reasonable. She asked LV to obtain a legal opinion on the accident.

Following this, LV agreed to record the claim internally and externally as split liability, rather than solely Mr M's fault.

Mr M didn't agree. He maintained the third party was responsible for the accident, and he asked for a final decision from an ombudsman.

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 explained to Mr M by our investigator, the role of this service isn't to decide who is responsible for an accident. That is the role of the courts. Instead we consider whether the insurer has conducted a reasonable investigation and reached a reasonable conclusion based on the information they had.

The policy terms allow LV to decide whether to defend or settle claims more generally. And we'd expect them to take into account all the evidence before doing so, and whether the evidence supported that position.

LV said that based on their experience, they'd be unlikely to be able to defend a claim for this type of accident in court. So, they settled it with the third party. And LV settled it on a without prejudice basis, which means Mr M may be able to pursue the claim, at his own cost, if he chooses to do so.

When our investigator looked into things, she asked LV to obtain a legal opinion on the claim and the likely outcome. LV did this. The conclusion was that at best it would be split liability. Following this, LV agreed to update records internally and externally that it was split liability. But LV also said the effect of this on Mr M's policy would be the same, as they have been unable to recover all costs from the third party.

As outlined, it's not my role to decide who was responsible for the accident. LV has updated internal and external records to record the outcome of the claim as split liability, based on legal advice. And I think the conclusions they have reached, based on this advice, are fair and reasonable. So, whilst I recognise it'll disappoint Mr M, I'm not going to ask them to do any more.

My final decision

It's my final decision that I'm not directing Liverpool Victoria Insurance Company Limited to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 15 August 2022.

Callum Milne
Ombudsman