

The complaint

Ms C complains about how American International Group UK Limited (AIG) handled a claim made on her commercial motor insurance policy.

What happened

The named driver on Ms C's policy had an accident whilst driving her company car. Ms C was unhappy that AIG tried to settle the claim as 50/50 split liability without fully investigating the claim. She was also unhappy that it didn't tell her the reasons for this and that this affected her personal injuries claim.

AIG agreed that it had decided liability prematurely and hadn't communicated effectively with Ms C. It withdrew the split liability offer and was pursuing the settlement as non-fault. It apologised to Ms C. But Ms C was unhappy with this because of the stress and trouble AIG had caused her.

Our Investigator recommended that the complaint should be upheld. He thought AIG should have told Ms C that it had accepted liability. He thought AIG had taken a year to put things right for Ms C. And so he thought an apology wasn't sufficient for the distress caused to her. He thought AIG should pay Ms C £750 compensation for the trouble and upset caused.

Ms C accepted this. AIG replied that it hadn't accepted liability, but it had offered a 50/50 settlement to the other insurer on a without prejudice basis as it was one person's version of events against the other's. It said it had told Ms C that this wouldn't affect her personal injuries claim. And so it thought it had communicated reasonably with Ms C. And it thought £750 compensation wasn't warranted.

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.

I can understand that Ms C feels frustrated and disappointed by AIG's response to her complaint. It's now 18 months since the accident and, from what I can understand, liability has yet to be agreed. From what I can see, Ms C is taking the other driver to court and AIG is awaiting the outcome.

Ms C said the other driver had hit her car in the rear. But the other driver said Ms C had reversed into her car. There was no CCTV footage available and no independent witnesses. And AIG said it was usual to settle such disputes as split liability.

It isn't our role to decide who was responsible for causing the accident. This is the role of the courts. Instead, our role in complaints of this nature is simply to investigate how the insurer made the decision to settle the claim. Did it act fairly and reasonably and in line with the terms and conditions of the policy? And has it treated Ms C the same as someone else in her position.

AIG is entitled under the terms and conditions of its policy with Ms C to take over, defend, or settle a claim as it sees fit. Ms C has to follow its advice in connection with the settlement of her claim, whether she agrees with the outcome or not. This is a common term in motor

insurance policies, and I don't find it unusual. Insurers are entitled to take a commercial decision about whether it is reasonable to contest a third party claim or better to compromise.

That said, we expect an insurer to reasonably investigate a claim and consider the evidence available before making its decision on liability.

From AIG's notes, I can see that it considered Ms C's version of events and pressed the other insurer for an admission of liability. AIG sent the other insurer Ms C's version of events and photographs taken at the scene and it asked for the other side's statement. The other insurer replied refusing liability but didn't provide the requested statement. AIG asked for a police report, but the police hadn't attended the accident, so no report was available.

AIG requested CCTV footage from the local council. AIG warned Ms C that if the footage wasn't available then it would be one side's word against the other's, and it would consider settling the claim as split liability.

The council directed AIG to the police and CCTV footage wasn't available. AIG's engineer reviewed photographs of the damage to both cars for consistency. He thought Ms C's car may have had other damage caused by her reversing into a bollard or something similar. This was put to Ms C and she said her car didn't have earlier damage. And she asked AIG not to offer split liability yet.

A month later, AIG wrote to Ms C asking for her decision on its proposal to offer a split liability settlement. It then offered this to the other insurer on a without prejudice basis. Three months later, this offer was accepted. But I can't see that AIG then told Ms C this.

When Ms C complained, AIG accepted that it had made its liability decision prematurely and didn't communicate its reasons for this effectively to Ms C. When a business makes a mistake, as AIG accepts it has done here, we expect it to restore the consumer's position, as far as it's able to do so. And we also consider the impact the error had on the consumer.

To put things right for Ms C, AIG withdrew its offer to settle the claim as split liability and it's awaiting the outcome of Ms C's court case to resolve the claim. I think this is fair and reasonable as Ms C can continue to pursue her personal injuries claim without this concern.

But, like the Investigator, I'm not satisfied that an apology is sufficient redress for the impact the premature settlement decision and poor communication had on Ms C. This is for the following reasons.

AIG hadn't received the requested statement from the other driver. The other insurer sent in a brief account and photographs of the damage to the cars. AIG pressed for the statement once. But then it didn't press any further. And so it relied on the insurer's rebuttal to decide that it was one person's word against the other's.

AIG had relied on Ms C's photographs showing that her car had been pushed over a white line to press the other insurer to accept liability. But I can't see that it obtained a response from the other insurer to this. The other driver's statement may not have changed AIG's decision, but I think this should have been obtained and considered. And so I think AIG didn't complete its investigation before it made its liability decision. I think this caused Ms C upset.

Ms C had repeatedly told AIG that she wouldn't accept a split liability settlement. But it still made this offer to the other insurer to try and close the claim two months after the accident. The other insurer accepted this offer only after Ms C issued court proceedings. Ms C then asked AIG to withdraw its offer and to continue to investigate the claim. But it didn't do this until three months later. I think this caused Ms C considerable avoidable trouble and stress over a long period.

AIG said it had warned Ms C that a split liability assessment may be the best possible outcome. And I agree that it did tell Ms C this in its emails. But I don't think AIG explained

the reasons why it thought this was so and any risks it had identified if the matter were to go to court. So I'm not satisfied that AIG explained its decision to Ms C as it should have.

AIG apologised for its errors, but I don't think this goes far enough in the circumstances. Our Investigator recommended that AIG should pay Ms C £750 compensation for the trouble and upset caused. I think this is in keeping with our published guidance for the impact on the consumer when there has been considerable trouble and upset. So I think that's fair and reasonable.

Putting things right

I require American International Group UK Limited to pay Ms C £750 compensation for the distress and inconvenience caused by its handling of her claim.

My final decision

For the reasons given above, my final decision is that I uphold this complaint. I require American International Group UK Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 17 November 2022.

Phillip Berechree
Ombudsman