

The complaint

Mr P has complained about the fact that Society of Lloyd's (SOL) settled a claim by a third party against his policy in full as a fault claim against his wishes.

Mr P is represented by Mrs V and the claim and complaint were dealt with by a syndicate at SOL. For the sake of ease I mainly referred to Mr P and SOL in this decision.

What happened

Mr P was involved in a collision with a third party vehicle in what he has described as a country lane. He called the number provided by his insurance broker to report the incident and spoke to the broker's claim handling agent, who I'll refer to as X.

Mr P told X he was only reporting the incident and did not want to claim on his policy. X put the call through to SOL and told their claim handler this. Mr P provided details of the incident to the claim handler at SOL. The claim handler told him that liability was likely to be 50/50 at best, and that it would be noted as a claim. Mr P shared his understanding of 50/50 as each party or their insurer paying for the damage to their vehicle and said again he didn't want a claim against his policy. The handler told him he would log it as a claim and didn't comment specifically on the fact Mr P had said he didn't want a claim against his policy.

Mr P later found out that SOL had paid £3,792.24 for the repairs to the other vehicle. He complained about this and the fact that SOL had not contacted him about the third party's claim. SOL said they were entitled to settle the claim, but accepted they should have told Mr P they'd done so. They offered him £50 to compensate him for the distress and inconvenience he'd experienced as a result of them not doing so.

Mr P wasn't happy about this and complained to us. He said he'd made it clear from the outset he didn't want to claim and the calls he made to report the incident proved this. He said if he'd known the third party was going to claim under his policy, he'd have contacted him and agreed to pay for the repairs to his car.

One of our investigators considered Mr P's complaint. She said that under the terms of Mr P's policy SOL were entitled to settle the third party claim, so they hadn't done anything wrong in doing so. And she said the £50 they paid in compensation for not telling him about it was sufficient.

Mr P wasn't happy with our investigator's view and asked for an ombudsman's decision. Whilst he accepts the policy terms gave SOL the right to settle claims against his policy, his view is they should only do so if it is appropriate and they've properly investigated the matter. As far as he is concerned it was not appropriate for SOL to settle the third party claim against him, as he had said to them he didn't want to claim.

The complaint came to me and I spoke at some length to Mr P's representative and followed this up with two emails. I explained that I agreed SOL shouldn't have simply contacted the third party and offered to pay for the repairs to their car. And that – instead – they should have left it and waited to see if the third party made a claim. And then – if he had done so,

they should have let Mr P know. I asked Mr P's representative to provide evidence that the third party would have been willing to settle direct, along with evidence showing what this would have cost. She has now provided evidence that it would probably have cost a lot less than SOL paid to their repairer to complete the repairs to Mr P's car. But she hasn't been able to provide confirmation from the third party that he would have been happy to have his car repaired by the repairer Mr P was suggesting.

I also put it to SOL that they should have followed the process I've set out above instead of contacting the third party. They've responded to say that Mr P reported the claim to his broker and re-iterated their view that settling the third party claim to minimise the cost of doing so was the right thing to do.

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.

The terms of Mr P's policy did give SOL the right to handle claims against him as they felt appropriate. But – in my opinion – it is good industry practice for any insurer exercising this right to act reasonably when doing so and consider the wishes of their customer. In this case, despite what SOL have said, it is clear that Mr P's broker put him through to SOL and he explained very clearly to SOL's claim handler that he was reporting the incident, but didn't want to make a claim. With this in mind, it remains my view that SOL shouldn't have proactively contacted the third party to offer to deal with his claim. I say this because in doing so they completely ignored the wishes of their customer and I do not consider this was reasonable. I do of course appreciate they wanted to minimise the cost of any claim. But this should not have been put above providing a reasonable service to their customer.

If SOL hadn't contacted the third party Mr P may have been able to arrange for his car to be repaired and paid for this. However, Mr P's representative hasn't been able to get the third party to confirm that he would have been happy with this option. And, bearing in mind he was a taxi driver with a commercial vehicle, without his confirmation, I do not think I can say it is most likely he would have agreed to this. Therefore, whilst I can appreciate Mr P's frustration, based on the evidence I have, I don't consider it would be appropriate for me to make SOL alter the record of the claim against him. This is because if the third party had decided not to accept Mr P's offer to arrange the repairs to his car and claimed against Mr P's policy instead, SOL would most likely have had to settle his claim either in full or on a 50/50 basis. And this would have resulted in a fault claim on Mr P's record.

However, I do think that the inappropriate way in which the whole matter was handled by SOL caused Mr P a great deal of distress and inconvenience. And I don't think the £50 they offered him in compensation for this is sufficient. I consider £200 in total is appropriate. If SOL have already paid the £50 they offered, then they will only need to pay Mr P a further £150.

Putting things right

For the reasons set out above, I've decided the fair and reasonable outcome to Mr P's complaint is for SOL to pay him a total of £200 in compensation for distress and inconvenience.

My final decision

My final decision is that I uphold Mr P's complaint about Society of Lloyd's trading as Lloyd's of London and order them to pay him a £200 in compensation for distress and

inconvenience in total. If they have already paid him £50, then I only require them to pay him a further £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 19 September 2023.

Robert Short
Ombudsman