DRN-3999801

The complaint

Miss C complains about how Royal & Sun Alliance Insurance Limited (RSA) handled and settled a claim made on her motor insurance policy.

What happened

Miss C was involved in a collision with another driver in March 2020. RSA then treated the claim as non-fault. But it settled the claim as split liability in October 2021. The claim was closed after two years in April 2022. Miss C was unhappy with the delays in the claim, lack of updates and with the with the liability decision. She said RSA hadn't obtained CCTV footage that she had told it about. Miss C was unhappy that the fault claim had increased her premiums and wanted the increases refunded.

RSA said it had settled the claim as split liability on a without prejudice basis, as it was entitled to by the policy's terms and conditions. But it recorded the claim as non-fault and Miss C's No Claims Discount (NCD) was protected. It said the claim hadn't affected her premiums. RSA reimbursed Miss C half her £400 policy excess and the other insurer reimbursed her the other half. And RSA paid Miss C £100 compensation for her trouble and upset caused by its delays and not following up the CCTV. But Miss C was unhappy that she had to chase RSA for over two years.

Our Investigator recommended that the complaint should be upheld in part. He thought RSA had reasonably restored Miss C's position in regard to the liability aspect of her complaint. This was because it had recorded the claim as non-fault and Miss C had recovered her excess. But he thought the lack of updates and the delay in settling the claim was excessive and RSA should pay Miss C £300 further compensation for the trouble and upset caused.

RSA replied that it thought its compensation payment was fair and reasonable. It reiterated that it had recorded the claim as non-fault. It provided a legal opinion that said the CCTV evidence, if available, was unlikely to have provided evidence of liability. As RSA didn't agree, the complaint has come to me for a final decision.

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.

Miss C said the collision occurred when the other driver changed lanes and hit her car. She said he admitted liability at the scene. But he later said they had collided when they both changed lanes.

The Investigator has already explained that 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 Miss C the same as someone else in her position.

RSA is entitled under the terms and conditions of its policy with Miss C to take over, defend, or settle a claim as it sees fit. Miss 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 do not 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.

The evidence that RSA had to consider was the two driver's versions of events. I can't see that accident reports and diagrams were completed by the drivers. And the exact location on a long road is not clear. Miss C said she told RSA that there may be CCTV evidence available and gave it details to obtain this. But RSA said it didn't follow this up. I don't doubt what Miss C has said, but there's no certainty that CCTV evidence, if obtained, would show which driver was at fault. So, as it was one driver's word against the other's, RSA concluded that a split liability settlement would be the best possible outcome.

I think RSA made this decision after reasonably considering the evidence available. I can see that it initially contested liability with the other driver's insurer and threatened legal action. But it then compromised with a 50/50 settlement made without prejudice. I think it's entitled to do this by the policy's terms and conditions.

But RSA has agreed that there were "inordinate delays" in the claim caused by its solicitors, acting as its agent, that likely led to the compromise settlement. When a business makes a mistake, as RSA 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.

The settlement meant that Miss C should have had a fault claim recorded against her. But RSA then recorded the claim as non-fault NCD allowed, so Miss C's premium wasn't affected by a fault claim at renewal. Miss C had protected her NCD, so her NCD years were unaffected. Miss C recovered her policy excess and her claim for child seats was paid. So I think Miss C's position was reasonably restored.

Miss C wanted written confirmation about how the claim was recorded. But I think this was provided in RSA's response to her complaint.

Miss C said her premium in subsequent years was affected. RSA explained that it had rated her renewal premium in 2020 with the claim as non-fault. But it's not unusual, as the Investigator has explained, for a non-fault claim to have an effect on premiums. So I can't reasonably say RSA did anything wrong in this.

In terms of impact, RSA paid Miss C £100 compensation. But I'm not satisfied that this was sufficient in the circumstances:

- RSA has a duty to settle claims promptly. This can take some time where there is a dispute over liability. But I can see there were significant delays in the claim meaning that Miss C had to wait for over two years for the claim to be closed. One year of this time was spent waiting for a response from its solicitors. I think this was excessive and caused Miss C avoidable stress and frustration.
- In the meantime, from Miss C's account, she had to spend long periods on the phone pursuing RSA for updates. There were changes in staff meaning that the contact details she had been given were out of date and so her emails received no response.
- RSA said Miss C didn't respond to its explanation that it intended to make a split liability assessment, and this caused a delay. Miss C said she did dispute this. But I can't see from the records provided what happened, so I can't dismiss what Miss C has told us.

I think this poor communication caused further trouble and upset for Miss C that could have been avoided with a better level of service.

Our Investigator recommended that RSA should pay Miss C £300 further compensation for the trouble and upset caused by its level of service. I think that's in keeping with our published guidance for the impact of multiple errors over a protracted period. And so I think that's fair and reasonable.

Putting things right

I require Royal & Sun Alliance Insurance Limited to pay Miss C £300 further compensation for the distress and inconvenience caused by its level of service.

My final decision

For the reasons given above, my final decision is that I uphold this complaint in part. I require Royal & Sun Alliance Insurance Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 19 May 2023.

Phillip Berechree
Ombudsman