

The complaint

Mr T complains about how Adrian Flux Insurance Services Group referred him to an accident management company when he called to make a claim on his motor insurance policy.

Reference to Adrian Flux includes its agents.

What happened

Mr T held a motor insurance policy with Adrian Flux, a broker, underwritten by an insurer – who I'll call U.

When he was involved in an accident, he called Adrian Flux to make a claim. Due to the circumstances of the accident, Mr T appeared to not be at fault for it, so, he was referred to an accident management company (AMC) to deal with his claim.

The AMC offered to arrange for Mr T's car to be repaired and provide a hire car throughout those repairs. The hire and repair were to be provided as part of a credit hire agreement, with the intention of claiming the costs back from the insurer of other driver involved in the accident (the TPI).

Mr T isn't happy with the repairs carried out under the credit hire and repair agreement. He thinks Adrian Flux are responsible for this because, he says, it didn't give him enough information to make an informed choice about deciding to use the AMC as opposed to using his own insurer U.

Mr T complains about that referral and thinks Adrian Flux should take ownership of the outstanding issues with the repairs to his vehicle. He also complains about the service provided by Adrian Flux while the repairs were being carried out. And he's said there were other issues with the AMC relating to the hire car he was provided and the documentation not matching the car he was given.

Mr T also complains about the success fee charged by the solicitor dealing with the personal injury aspect of his claim against the TPI – which he also feels is Adrian Flux's fault.

Our investigator looked into Mr T's complaint and recommended it be upheld in part. She thought Adrian Flux's referral could have been better. And she thought that if it were, Mr T would have chosen to claim through U. But she thought Mr T would have elected to use his own repairer, and so felt that any issues with the repair wouldn't be U's responsibility – so in essence she thought he'd be in the same position he finds himself in now – with no one taking responsibility for the repairs.

Our investigator thought Adrian Flux acted reasonably when referring Mr T's requests for updates to the AMC or referring him back to the AMC because they were the ones repairing his car. And she thought ultimately Mr T chose to use his own solicitor, so didn't think Adrian Flux was responsible for any fees it wanted to charge.

Our investigator thought it would be distressing and inconvenient to find out that we couldn't consider a complaint about the AMC. And she didn't think Adrian Flux did enough to make this clear in its referral. So, she thought Adrian Flux should pay Mr T £150 compensation to account for this distress and inconvenience.

Adrian Flux agreed. But Mr T didn't and asked for an ombudsman's decision. He doesn't agree that he would have used his own repairer had he claimed through U. So, he feels Adrian Flux should take ownership of the outstanding repairs.

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.

Having done so, I'm also upholding Mr T's complaint, in part. I'll explain why and how below.

To begin, I'm not looking into the actions of the AMC. It's not something I, nor this service is able to look at. Indeed, the fact that we're unable to look at the AMC's actions in this claim forms part of Mr T's complaint with Adrian Flux.

Adrian Flux referred Mr T to the AMC based on what he told them about the accident he was involved in. Claiming via an AMC often has benefits and referring a consumer to an AMC is something Adrian Flux is entitled to do. But it should only do so where necessary. And importantly it needs to give enough information in a balanced way to allow Mr T to make an informed choice.

I've listened to the referral call. Adrian Flux does Mr T that by using the AMC he won't be claiming on his own insurance. It also says the hire and repair will be done under a credit agreement. But importantly, Adrian Flux doesn't explain what this will mean in respect of Mr T bringing a complaint to us if he was unhappy with the AMC.

So, I've considered what Mr T would have done had this been made clear to him.

Our investigator thought Mr T made it clear he'd rather not claim through his own insurance and pay the excess – even though it was explained to him that he'd likely be able to get the excess back. But she thought that decision would have been different had Adrian Flux explained the potential risks of using the AMC more. She thought this because Mr T's policy included provision of a courtesy car, and he had legal expenses insurance to help claim any uninsured losses, including his excess back.

I'm less persuaded than our investigator. With the benefit of hindsight, it's easy to say Mr T would have done something different – because he now has a problem with the repairs and the AMC. But when making the claim at the time, I'm not as persuaded that he'd have been thinking about anything going wrong.

That said, I can't be 100% sure what Mr T would have done, no one can really, not even Mr T himself. And Adrian Flux did need to give him more information than it did. So, Mr T didn't want to claim through his own insurance and was unlikely thinking about anything going wrong with the claim at the point he was referred. But do I think he would have opted for the more secure option of claiming through his insurer U?

And after much deliberation, I think he would have. And this is because taking into account what Mr T has told us throughout this complaint, the balance of the benefits of using the AMC would have been tipped with the information Adrian Flux should have told him in relation to the AMC not carrying out an activity we could look into, and what that might mean

if Mr T was unhappy and wanted to complaint.

So, I'm satisfied the referral wasn't as good as it needed to be. And I'm satisfied if it were, Mr T would have made a different decision. I now need to consider the impact of that decision.

The vast majority of the impact arises because Mr T isn't happy with the repairs. But the repairs weren't carried out by the AMC's choice of repairer, they were carried out by Mr T's chosen repairer. If Mr T were to claim through his policy with U, it too would have a network of approved repairers. If it's repairer carried out the repairs, U would be responsible for them. But if Mr T elected to use his own repairer, even though he was claiming through U, U wouldn't have been responsible for those repairs.

So, essentially, I need to decide whether or not Mr T would have used one of U's repairers, or still chosen to use his own had he claimed on his insurance policy. Mr T says he would have used U's network. But I'm not persuaded he would have. Again, I appreciate I'll never know for certain, but I'm not persuaded Mr T's reasons for wanting to use his own repairer wouldn't have been in place had he claimed through his own policy with U.

So, I don't think Mr T would be in a different position to what he finds himself in now – other than we'd be able to look into a complaint about U's actions, whereas we can't look into the AMC's. I think, on balance, it's more likely than not that Mr T would have elected to use the same repairer regardless of whether the AMC or U were dealing with his claim. And because the repairer was his choice, U wouldn't have been responsible for any repairs carried out by it – it would simply have been responsible for paying for the initial repairs to fix the damage caused in the accident.

So, it follows that I don't find Adrian Flux responsible for the issues Mr T has with the repairs to his vehicle. And because neither Adrian Flux, nor U were dealing with Mr T's claim, I think it was reasonable for Adrian Flux to refer him to the AMC – who were dealing with the claim – when he had issue with it.

I also don't find Adrian Flux responsible for the issue relating to documentation and the hire car he was provided by the AMC. The AMC is acting in its own right, and I don't think this is a common issue or anything Adrian Flux could have reasonably foreseen. I don't find it stems from Adrian Flux's referral to the AMC.

Nor do I find Adrian Flux responsible for the solicitor's fee. Ultimately Mr T chose to use his own solicitor, and that solicitor has a responsibility to check if he has legal expenses insurance. Whether his chosen solicitors did this or not isn't Adrian Flux's responsibility.

That said, Mr T wasn't given all the information he needed to make an informed decision. Had he been, he'd have likely been able to bring any complaint here. To find that you don't have that avenue for assistance, right when you need it, would be distressing. So, for that, Adrian Flux should compensate Mr T £100.

My final decision

For the reasons set out above, my final decision is that I uphold this complaint and require Adrian Flux Insurance Services Group to:

- Pay Mr T £100 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 6 July 2023.

Joe Thornley
Ombudsman