

The complaint

Mrs R complains on behalf of her daughter Miss R that Admiral Insurance (Gibraltar) Limited settled a claim without consulting her and held her liable for an accident that should have been 50/50.

What happened

Miss R holds a motor insurance policy on which Mrs R is a named driver.

In November 2021 Miss R was in a car accident which she believed was a 50/50 case as there was no evidence to suggest either party was at fault.

Miss R logged the claim with Admiral straight away but heard nothing.

Admiral didn't contact Miss R until 7 June 2022 when they advised that the third party had issued court proceedings.

Mrs R on behalf of Miss R advised Admiral that they wanted to defend the claim, and Admiral instructed their solicitors. Mrs R spoke to the solicitors and provided a statement on 24 June. The solicitors advised they would lodge the defence and it would be likely to settle 50/50.

However, on 29 June Miss R received a letter advising that Admiral had settled the claim, accepting liability.

Mrs R complained to Admiral and they partially upheld her complaint and paid Miss R £150 compensation for the distress and inconvenience caused. They agreed that there had been no contact for a long period, and that there should have been better communication, but they didn't agree that they were wrong to accept liability.

Mrs R was unhappy with Admiral's response and brought her complaint to us.

One of our investigators looked into Mrs R's complaint but thought that Admiral's had acted fairly, and that their offer of compensation was reasonable.

Mrs R disagreed with our investigator's view, and so the case came to me to review.

I issued a provisional decision on the complaint. My provisional findings were as follows:

What I have to decide is whether Admiral have acted fairly and reasonably and in line with the terms of the policy when dealing with Miss R's claim.

I'm intending to uphold Mrs R's complaint and I will explain why.

Delays in communication

I can see that this accident was reported to Admiral on 9 November 2021, but that they made no contact with Miss R until 7 June 2022 following receiving a notice to issue court proceedings on from the third party insurers on 26 May 2022.

It is Admiral's inaction between November and June in respect of the claim which has led to the court proceedings being issued, and matters becoming urgent, so I think that Admiral are right to recognise this in their complaint response with an offer of compensation for distress and inconvenience.

Dispute of Liability

Miss R disputed her liability for the accident from the outset, saying that it should have been 50/50 liability.

Admiral have explained that after speaking to Mrs R, the solicitors did put forward the 50/50 offer to the third party. However, this was rejected, and as Mrs R had previously said that Miss R didn't want to go to court, Admiral decided to settle the claim at 100% liability to avoid further proceedings and costs.

At page 25 of the policy booklet, it says that Admiral are:

"We are entitled to

- Conduct the investigation, defence and settlement of any claim on your behalf"*

So, I'm satisfied that Admiral are entitled to settle a claim in this way under the terms of the policy. However, in this case, I don't think Admiral have done enough to confirm the position with Miss R regarding going to court before taking that decision.

I can see from the claim notes that when Admiral wrote to Miss R in June 2022, Mrs R contacted Admiral on her daughter's behalf and explained to them that her daughter was in the middle of her university exams, and that she didn't want her being under any further pressure to go to court at that time and she asked them to settle 50/50.

On 10 June the complaint handler called Miss R about her complaint resolution, and it is recorded that "We have been working on the basis PH not willing to attend court, having spoken with Mrs R (ND) and Mr R (ND) they changed their mind and wanting to attend court." And further down the note it says "ND adv happy to attend court, adv as PH driving PH needs to attend. Understood Adv file will be passed to our SOLS, they will be in touch re next steps and complaints will be in touch"

When Mrs R spoke to Admiral's solicitors she was advised that it was unlikely to go to court, and on that basis, she instructed them to pursue a 50/50 settlement.

I think that given what is at stake here, Admiral should have gone back to Mrs R after the offer of 50/50 was rejected by the third party insurers and explained that the only option now would be court, and to ask if she was still unwilling to attend court – especially given that the reason for not wanting to go to court was because of exams and those would have been over by the time it would reach court.

Mrs R has told us that faced with the only option of accepting liability, Miss R would have gone to court, and I think she should have been presented with the right information and her options.

As this didn't happen, I am minded to award some further distress and inconvenience for this aspect of the complaint.

The increase in premiums

Mrs R has told us that because the claim was recorded as a fault claim, rather than a 50/50 claim, it has caused a significant increase in the renewal premium that Miss R had to pay.

Miss R has now changed insurer, but Mrs R has said that she was told the premium was £263 higher than it would have been if the claim had settled 50/50. Unfortunately, she has been unable to provide me with written evidence to support this, but she has given me a copy of Miss R's premium showing it was £938.77 for the year with 2 fault claims recorded.

I've asked Admiral what difference the full liability fault claim made to the renewal price they quoted. Admiral have said that whether a claim is 50/50 or full liability, it is still recorded as a fault claim, and so it makes no difference in terms of the effect on the premium. Any difference in premium comes from the value of the claim. In this case as the claim was high value, Admiral have told us that the difference in premium would either be £27.21 or £21.77 depending on what the value settlement had been with the 50/50 split. So, the lowest renewal premium Admiral would have quoted Miss R would have been £1107.33.

This was still significantly higher than the premium Miss R paid by changing insurers, and so without evidence from the new insurer of what difference a 50/50 claim would have made to their price, I can't say whether there has been a disadvantage to Miss R here or not. I note Mrs R has also raised the issue of the excess, but a 50/50 claim would still have resulted in payment of the excess.

Taking into account what I have said above, I do think that Admiral could have provided better service, and this might have led to a different outcome, but I can't determine what that might have been, so I can only really make an award in respect of the poor service. I note that Admiral have offered £150, but I think that an award of £300 is more in line with the distress and inconvenience caused by the failings in communication at a time what Miss R was already under pressure because of her exams.

In the light of these findings, I therefore intended to uphold Mrs R's complaint, and I invited the parties to comment.

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 haven't received any comments from Admiral. Mrs R has raised a query about the excess but this has been responded to by the investigator. She hasn't expressed a view about whether the decision is accepted. However, in light of the above, I'm making my final decision in line with my provisional findings.

Putting things right

In order to put things right, Admiral should pay Miss R a total of £300, deducting the £150 if it had already been paid.

My final decision

My decision is that I am upholding Miss R's complaint, and directing Admiral to put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R and Mrs R to accept or reject my decision before 31 May 2023.

Joanne Ward
Ombudsman