

## **The complaint**

Mr E complains about Trinity Lane Insurance Company Limited's decision to accept liability following a claim under his motor insurance policy

## **What happened**

In early September 2021 Mr E said he received police notification about an accident that happened on 21 August 2021, and later was asked to identify the driver, his wife. He said his wife wasn't aware of any accident. In October 2021 Mr E said the police again contacted him giving three options, an education course £100, a fixed penalty £100 or to go to court. Mr E said his wife was having ongoing hospital treatment and with the pandemic he decided not to put her health at risk and agreed to the fixed penalty notice. Mr E said he was informed by the police that the matter was now ended.

But several months later he said he was contacted by his insurer about an accident which said his car had hit another vehicle in a car park. And that this had happened at midnight on 22 August 2021. He said that this couldn't be challenged as he'd accepted liability. Mr E said he'd to pay more for his insurance and the payment had to be made within seven days or his policy would be cancelled. Mr E complained to Trinity as he said he'd begrudgingly accepted a fixed penalty for an accident on 21 August 2021. But he wouldn't accept any liability for a second accident, as his wife wouldn't have been in a car park at midnight.

Trinity said the third-party insurer (TPI) had shown Mr E had accepted liability for the accident. They said despite his assurance that his wife wasn't responsible for the accident and that he'd only accepted the option given by the police because of her ill health, the likelihood of a successful challenge in court was "*significantly diminished*". So, in line with their terms and conditions they'd agreed to settle the claim.

Mr E wasn't happy with Trinity's response as they still referred to the accident as being on 22 August 2021. He referred his complaint to us.

Our investigator said Mr E had accepted liability for the accident so he didn't think Trinity had acted unfairly or unreasonably in settling the claim.

Mr E didn't agree and asked for an ombudsman to decide.

## **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 know my decision will be a disappointment to Mr E but having done so I'm not upholding this complaint I'll explain why.

It's not my role to decide who is at fault for an accident. This is something that is better

handled by the courts. My role here is to consider whether Trinity handled the claim made against Mr E's motor insurance policy in a fair and reasonable manner.

Firstly, I've considered the evidence to determine whether there has been one accident or two.

I can see that the TPI's claim was for an incident on 21 August 2021 in a car park between a car with a registration number ending \*KJ, and Mr E's car. The third party said their car was hit whilst unattended in a car park and the other car had left the scene. On reporting the matter to the police Mr E's car was identified. I can see the police attributed the blame to the driver of Mr E's car and that they told the TPI they would be offering a driving course as an option to Mr E.

Throughout the claim file I can only see reference made to the same registration numbers for the cars and the same place where the incident took place, the named car park. I think the change in date and time of the incident are administrative issues and not any reference to another accident. I can also see the same named car park on the "*Intention to Prosecute*" form issued to Mr E by the same police force. So, on balance I'm satisfied the accident is the same as the one Mr E accepted liability for.

Most motor insurance policies contain a term which allows the insurer to handle the claim how it sees fit. This is sometimes referred to as "subrogation". This term essentially gives the insurer a contractual right to settle the claim how it chooses. It doesn't need the agreement or consent of the policyholder. So, this means Trinity can decide whether to defend a claim or settle it - or they can decide whether they're prepared to defend Mr E if the matter went to court. Court proceedings can be expensive, and the outcome can't be guaranteed, so insurers will consider the costs involved and the likelihood of success in making these decisions. So, Trinity can make a decision Mr E disagrees with, as has happened here.

I can understand Mr E's frustration with being held liable for a collision he says he doesn't agree happened or was involved with but while I can't make a decision as to who was liable for the collision, I've looked to see if Trinity has acted fairly in deciding how to settle matters and I've checked they've made a reasonable assessment of the claim.

There are several things either party, or their insurers can use as evidence when settling a claim and deciding who is or isn't at fault, one of which can be a police report. And Mr E doesn't dispute he agreed to a fixed penalty for the incident from the police thereby accepting liability for the accident. So, I can't say that Trinity acted unfairly or unreasonably in settling the claim based on this evidence as there was little likelihood of success in their defending Mr E case.

I can see that the claim hadn't been added to Mr E's policy at time of renewal, and once it was the policy cost was recalculated. But this has been reduced and agreed after further discussion with Mr E so I won't comment further on this.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 4 August 2023.

Anne Scarr  
**Ombudsman**

