

## The complaint

Mr J has complained about the fact U K Insurance Limited (UKI) referred him to a third party company, who I'll refer to as A, so that they could handle his motor insurance claim. And that they did this without making it clear they were not responsible for A's actions.

## What happened

Mr J's work vehicle was damaged whilst it was parked. He called UKI to report the claim the next day. UKI's claim handler suggested his claim should be handled by what he described as a non-fault company. And he transferred Mr J to A. A wouldn't take on the claim initially and Mr J had to make further calls to UKI, who helped in getting A to take on his claim. Mr A still had problems with A in getting the repairs for his vehicle organised and getting a temporary replacement vehicle. In the end, he was left without a vehicle for his work as a waste disposal contractor for two weeks. And he's said he lost at least £2,435 in business income as a result of this.

Mr J complained to UKI. They rejected his complaint on the basis they were not responsible for the actions of A and had done their best to assist him in the circumstances. Mr J asked us to consider his complaint.

One of our investigators did this. Originally he said that he didn't think it should be upheld, as UKI weren't responsible for the actions of A. However, he eventually said it should be upheld on the basis UKI didn't make it clear to Mr J when they referred him to A that A were an independent company and UKI would not be responsible for any problems he had with them. He concluded that if they had made this clear Mr J would have opted to claim under his policy with UKI instead and – most likely - would not have been left without a replacement vehicle for a considerable period. He said UKI should pay £100 in compensation for distress and inconvenience and £2,435 to cover Mr J's loss of earnings.

UKI did not agree with the investigator's view. They said Mr J was able to distinguish between UKI and A and that he understood the difference between claiming through A and claiming under his policy with UKI. They also said Mr J clearly had no intention of claiming through his own policy, as he didn't want to pay his excess up front and there was no provision for a like for like replacement vehicle. So, even if he had claimed through them it would not have prevented his loss of earnings. They also suggested he could claim his loss of earnings from the third party's insurance company.

I issued a provisional decision on 17 May 2023 and set out what I'd provisionally decided as follows:

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*I've listened to the initial call Mr J made to UKI to report his claim. In this call I would have expected the claim handler to make it absolutely clear that A was a completely separate company and UKI would not be responsible for their actions if Mr A used them. I'd also have expected him to explain that Mr J could end up being responsible for some costs if he went*

*down this route and the third party claim didn't go in his favour. This would then have enabled Mr J to make an informed decision on whether to claim against the third party insurer through A or whether to claim under his policy with UKI. The handler didn't make things clear and instead just referred to A as a non-fault company. And I think he gave the impression claiming through them was the normal route in Mr D's situation.*

*This means that when Mr J had problems with A he ended up contacting UKI for help without appreciating they weren't responsible. And I think this in itself led to a great deal of frustration on his part. And this was all off the back of what I would describe as a poor referral call. I appreciate the second handler Mr J spoke to at UKI was really helpful and did explain that a claim through A was different to a claim under his policy with UKI. She even mentioned she was aware of some problems with the service provided by A. But Mr J had already decided to let A take on his claim at this stage and I still don't think he fully appreciated UKI weren't actually responsible for A's actions. I think the distress and inconvenience Mr J experienced because of all this warrants a fairly significant amount of compensation. And having considered the level of frustration this caused Mr J, I think £300 is appropriate.*

*However, it would only be fair and reasonable for me to award something to cover Mr J's loss of earnings if I felt he would not have experienced this loss if UKI's handlers had been clearer generally and especially on the fact UKI weren't responsible for A's actions. And I don't think I can say this would have been the case. This is because Mr J was clearly very keen to avoid paying his excess up front and he could only avoid this if he made a claim against the third party insurer through A or on his own without support. Also, he did not have the option of a like for like replacement vehicle under his policy with UKI. So, if he'd pursued this route and discussed using one of UKI's approved repairers he'd have found out he would only be entitled to a car or small van whilst his vehicle was in for repair. Whereas with a claim through A he would have been entitled to a like for like replacement vehicle. Also, at the point he decided to go through A Mr J wouldn't have anticipated running into problems and being left without a vehicle for around two weeks.*

*In the circumstances, I think if UKI's claims handlers had been really clear with Mr J on the role of A and what would happen, he would still have decided to use A. And this means he would still have ended up with no vehicle for a period of time and a loss of earnings.*

*I appreciate Mr J has lost a considerable amount of money due to A's failings, but – as I've explained - I do not think this was directly because UKI failed to explain what was happening to him properly. In view of this, I do not consider it would be fair and reasonable for me to make UKI cover this loss of earnings.*

*Unfortunately, we can't consider a separate complaint about A on this issue. But it might be possible for Mr J to claim his loss of earnings back from the third party insurer himself or with the help of A or with the help of a solicitor.*

*In summary, I do not think it is appropriate for me to make UKI cover Mr J's loss of earnings. But I do think their poor referral process to A caused Mr J a significant amount of distress and inconvenience and they should pay him £300 in compensation for this.*

*I gave both parties until 31 May to provide further comments and evidence in response to my provisional decision.*

*UKI initially responded to say they didn't agree with my provisional decision. However, they have since said they accept it and they have agreed to pay the £300 in addition to making their sincere apologies to Mr J.*

Mr J does not agree with my provisional decision. He still thinks UKI are responsible for his loss of earnings. He's said, as it was always clear he wasn't at fault for the accident, he would have been able to recover his excess and any other costs and – if he'd realised what was happening - he would have kept his claim under one company to avoid confusion. As far as he was concerned, he was dealing with one company and he found the process very confusing.

### **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've noted what Mr J has said, but I still don't think he would have opted to claim under his own policy with UKI if they had explained what was happening properly to him and the potential issues with going through A. I say this because the easiest way to avoid paying his fairly large excess up front and get a like for like replacement vehicle quickly was going through A. Mr J could have gone direct to the third party insurer, but there was no guarantee they'd arrange the repair of his vehicle quickly or offer him a like for like replacement vehicle.

As, I've said previously, Mr J would not have known when he committed to using A that they were going to handle things badly and he was going to be left without a vehicle. So, while I appreciate that with the benefit of hindsight, he is adamant he would have claimed through UKI and not through A, I still do not think this is what would have happened. Obviously, I can't know for sure, but I have to decide what I think is most likely to have happened.

As I think Mr J would have claimed through A even if UKI had been clear on what was happening, it follows that I still don't think they are liable for the income he lost. This is because I don't think this loss was as a result of the poor referral by UKI to A.

I do however still think UKI's poor referral caused Mr J significant distress and inconvenience for the reasons I set out in my provisional decision; and that £300 in compensation for this is fair and reasonable.

### **Putting things right**

For the reasons set out above and in my provisional decision, I've decided to uphold Mr J's complaint and award him £300 in compensation for distress and inconvenience.

### **My final decision**

I uphold Mr J's complaint and order UK Insurance Limited to pay him £300 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 26 July 2023.

Robert Short  
**Ombudsman**