

## **The complaint**

Mrs L complained about Tesco Underwriting Limited's service when she claimed under her motor insurance policy.

## **What happened**

Mrs L's car was damaged when another car crashed into it and the other driver (the third party) failed to stop. Tesco declared that her car was uneconomical to repair and paid her an amount for its market value.

Mrs L said that Tesco still pursued her for the premium payments, delayed dealing with her claim, wrongly recorded it as a fault claim, didn't give her a courtesy car, and disclosed her details to lawyers without their permission. She wanted compensation for this.

The investigator didn't recommend upholding the complaint. He thought Tesco had acted reasonably and in line with Mrs L's policy. Mrs L didn't agree and so the complaint was passed to me to decide. Her complaint was brought by her husband.

Mrs L is also unhappy about what Tesco paid for her car after they declared it uneconomical to repair. I don't deal with that here because, as the investigator has explained, that matter was a separate complaint to Tesco.

## **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.

Mrs L's policy states that *'If the car is written of or declared a total loss, we will not refund any premium. If you are paying by instalments your full annual premium remains payable.'*

So as the investigator explained, it isn't unfair of Tesco to expect Mrs L to pay the balance of her annual premium. That's because Tesco insured Mrs L and paid her claim under her policy in return for the full annual premium. Mrs L was simply paying that annual premium by instalments under a credit agreement, so she does still owe Tesco the remaining amount.

I also see from her policy that Tesco have to provide a courtesy car while a damaged car is being repaired but not if they declare it uneconomical to repair. That's normal in the insurance industry and we don't think it's unfair. As that's what happened here, Tesco weren't obliged to provide a courtesy car.

Tesco calling it a fault claim doesn't mean that they think that Mrs L (or her husband) caused the incident or that it was their fault. It's called a fault claim if the insurer can't recover their claim costs from the third party or their insurer. That's what has happened here because the third party left the scene and couldn't be located. Tesco haven't been able to recover their costs, so it's not unreasonable for them to record her claim as fault. Making an insurance claim, fault or not, may well impact premium cost on renewal. However, as the investigator told Mrs L, there may be other reasons for a premium increase. So if Mrs L is

unhappy with the premium she would need to take that up with Tesco as a separate complaint.

Mrs L thought that Tesco delayed investigating her claim, including around obtaining CCTV footage potentially identifying the third party's car. I see that Tesco did try to obtain relevant CCTV footage. They wrote to an organisation and to the police and also spoke to a witness. But unfortunately this didn't help identify the third party's car.

Mrs L complained that Tesco wrote to the wrong place and didn't do it quickly enough, and so it was their fault that CCTV footage was no longer available. However I don't think it's fair to assume that CCTV footage of the incident would've been available at the location of the incident and that it would've shown the incident and have conclusively identified the third party's car. Indeed the police confirmed that they would not look for that CCTV footage, and that they generally don't look for CCTV footage in these situations, as they think it doesn't usually show cars' registrations. It's also not fair to assume that if Tesco had asked earlier that footage of the third party car would definitely have been available at the other location Mrs L provided, or that it would have conclusively identified the third party car. I think that Tesco asked the organisations within a reasonable time after Mrs L reported the incident to them. So I think Tesco did enough to investigate the claim.

Mrs L complained that Tesco sold their details to claims lawyers who called her soon after she'd reported the incident to Tesco. But Tesco explained that Mrs L's policy included legal cover. And that where, as here, there was likely to be an issue with recovery of third party costs or there was personal injury reported, Tesco would instruct lawyers as soon as they received report of the incident.

The lawyers contacted Mrs L the day after she'd made the report. She was surprised to hear from them. Tesco apologised for not warning Mrs L they would do that. But Tesco did explain it to her and reassured her that they'd instructed the lawyers and why, and that they hadn't sold them her details. This was the next day after Mrs L had made the report. I think that was reasonable of Tesco.

Mrs L remained unhappy. She said Tesco disclosed her information to the lawyers without her consent. But Mrs L's policy in section M describes that it provides cover for legal costs and expenses to pursue a claim for compensation in respect of uninsured losses or personal injury arising from a road traffic accident for which another party is at fault, and that on a claim *"we will appoint one of our panel of solicitors, or their agents, to handle your case."*

So I think that Tesco had the right to do this under the policy and didn't need Mrs L's permission before doing so. I also see that Tesco did it with the good intention of trying to help Mrs L with their claim, and potentially recover compensation for her, so I think that was fair. As the investigator noted, if Mrs L thinks Tesco made a data protection breach, she can refer that to the Information Commissioner's Office. And if Mrs L felt the lawyers contacted her at an unsociable time that's something she could take up with the insurer of the legal protection part of her policy, as the investigator has explained.

I think it's unfortunate that Mrs L's husband was involved in a distressing incident, which they think wasn't an accident but a deliberate act by the third party. I can see that it must be very frustrating that the third party hasn't been identified. And it's upsetting that they've been put to this trouble through no fault of their own. However, I'm looking here at Tesco's actions in dealing with the claim, and for the reasons above I don't think that they have done anything wrong. This means that I don't require them to do anything else.

**My final decision**

For the reasons given above, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 28 November 2023.

A handwritten signature in blue ink that reads "R. Scott". The signature is written in a cursive, flowing style.

Rosslyn Scott  
**Ombudsman**