

The complaint

Ms M complains about the way One Insurance Limited ("One") investigated a claim under her car insurance policy.

What happened

Ms M had a car insurance policy with One.

In May 2022 a third-party driver collided with her car which was parked at in a car park. The third party drove away from the collision. Two witnesses reported the collision to Ms M. She reported the collision to the police and made a claim from One.

The police interviewed at least one of the witnesses who provided a statement. The third-party driver was later arrested and convicted of various offences including the collision with Ms M's car. She provided proof of this from the court to One.

One said it investigated the collision and appointed solicitors to work on Ms M's behalf, but they weren't able to recover costs from the third party.

This meant that Ms M was left with a 'fault' claim on her car insurance. She was asked to pay her excess of £200.

Ms M complained. One said it didn't think it had done anything wrong. It said it had appointed solicitors who weren't able to pursue the third party. They said the witnesses weren't responding. One said there was no direct evidence connecting the third-party driver to the collision with Ms M's car. I said it was taking the claim to the Motor Insurers' Bureau to attempt to recover the costs of the claim from it.

Ms M remained unhappy and brought her complaint to this service. Our investigator looked into it and thought it would be upheld. He thought One should have requested the police report, which named the driver and linked them to the collision site and Ms K. One didn't know why it hadn't asked for the police report. Our investigator said he thought One caused Ms M trouble and upset and it should pay her £150. He also said he'd expect One to reassess Ms M's claim and if it was able to recover its cost, then it should repay Ms M.

One didn't respond to the view. Because it didn't respond, this complaint has been passed to me to make a final decision.

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'm upholding Ms M's complaint and I'll explain why.

It's important I say it's not this service's role to determine who is liable for a collision. But what I can do is decide whether I think One investigated Ms M's claim fairly and reached a reasonable outcome. And in this case I don't think it has.

It's clear to me that Ms M reported the collision to the police, and a person was convicted of driving without due care and attention. The burden of proof for a conviction is beyond reasonable doubt, which is a much stronger burden than in civil cases. So, I think it's fair to think that the conviction was about the collision of the third party with Ms M's car.

Ms M supplied details of this conviction, which shows the name of the third party and the location of the collision as the car park where Ms M's car was damaged. But One didn't ask for any further details from the police. One's solicitors later said that because they didn't know the name of the driver, the case couldn't be pursued against the insurer of the third-party car.

I don't think this is very good service of One. It seems to have only chased up the witnesses found by Ms M and I can see that eventually one of them asked the solicitors to stop chasing them. But very little else seems to have been done, even though information was readily available.

This lack of action has caused Ms M some distress and inconvenience. But it's important I say that any claim, whether 'fault' or 'non-fault', will affect a driver's premium when their policy renews. In Ms M's case, because One couldn't recover its costs, it will have listed the claim against her policy as 'fault' until such time as it can get its money back.

It's important Ms M understands this is how the insurance market operates.

Now that One has information identifying the third party, I think it should reinvestigate the claim and seek to recover its costs from the third party. From the file, it's my understanding that this process is underway.

If it does recover its costs then I'd reasonably expect Ms M to be refunded her excess in due course. I'd also expect an adjustment of her premium to be made in her favour if her claims history is able to be changed from 'fault' to 'non-fault'. But I can't require One to carry out these actions because the litigation needed may be complex and the outcome of it is less than certain.

Ms M's distress and inconvenience is clear to me. I've thought about this and looked at this service's guidelines. I think the appropriate amount of compensation is £150.

My final decision

It's my final decision that I uphold this complaint. I direct One Insurance Limited to pay Ms M £150 compensation for its poor service investigating her claim.

One Insurance Limited must pay the amount within 28 days of the date on which we tell it Ms M accepts my final decision. If it pays later than this, it must also pay interest on the amount from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 29 February 2024.

Richard Sowden
Ombudsman