

The complaint

Mr H has complained about his car insurer Admiral Insurance (Gibraltar) Limited regarding its decision to hold him at fault for an accident.

What happened

Mr H had turned out of his driveway and started along the country road when a car collided with him from behind. A claim was made. Admiral said as Mr H had just turned out of his driveway, he must have impeded the other driver, therefore he was likely responsible for the accident. Mr H disputed that and when Admiral wouldn't change its mind Mr H complained to the Financial Ombudsman Service.

Our Investigator wasn't minded to uphold the complaint. Mr H remained unhappy and the complaint was referred to me for an Ombudsman's decision.

I noted that Admiral had presented no evidence at all to support its position. I'd noted that Mr H had argued about "stopping distances" – given the road situation at the site of the incident. But I couldn't see from Admiral's submissions that it had considered the road position at all or sought any kind of expert advice which might speak to what was most likely to have happened. Rather Admiral's file seemed to show that it had assumed that because Mr H had not long since completed a manoeuvre to enter the main road, that his actions had impacted the other driver's ability to stop in time to avoid the crash.

Our Investigator, at my request, went back to Admiral to ask if it had completed any investigation or if it did have some other evidence which might show it had reached a fair and reasonable decision. Admiral said it was making some enquiries with the team which handled the third-party claim (the other driver also having been insured by Admiral). Admiral asked for further time to be able to look into this and I pointed out to Admiral that if it was taking it so long to 'look into it', that suggested it did not have, and had never had, any evidence to support its position. So I didn't think it had reached its decision on the claim fairly and reasonably.

I told both parties that I intended to require Admiral to amend the record of the claim to show Mr H was not at fault – that any NCB (no claims bonus) is allowed. If the policy renewed with Admiral in 2023, it should recalculate the premium charged accordingly. If Mr H went elsewhere Admiral should provide a letter confirming the NCB has been allowed and Mr H could use that to ask his current insurer to recalculate the premium charged. Also that Admiral would need to pay £300 compensation.

Admiral did not reply further. Mr H said this was a positive outcome and confirmed he had changed insurers in 2023.

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.

This service is not here to determine liability for accidents. Rather we assess whether the insurer being complained about reached a fair and reasonable decision on liability. What that will entail will vary from case to case.

Here Mr H raised some pertinent points about the circumstances of the accident – the road layout, and how much time the other driver should have had to adjust his speed to avoid colliding with Mr H, had the other driver been driving carefully. Admiral didn't take note or consider any of that. I thought it may have done but that maybe it was just not evident from its submissions. But it is now clear to me that Admiral did not investigate or fully consider what is most likely to have happened here. So I'm satisfied that it did not make a fair and reasonable decision on liability on this occasion.

As Admiral did not make a fair and reasonable decision, it will need to act to put things right. That includes addressing the liability decision and its impact. But I'm also mindful that Mr H has been quite worried about this and has put in a lot of effort to try to show Admiral he was not at fault. It also caused Mr H to feel the need to change insurers. I'm satisfied that £300 compensation is fairly and reasonably due.

Putting things right

I require Admiral to:

- Amend the record of the claim, internally and externally, to show that Mr H was not at fault – that his NCB is allowed.
- Provide a letter for Mr H confirming that the NCB is allowed, which Mr H can use to present to his current insurer.
- Pay Mr H £300 compensation.

My final decision

I uphold this complaint. I require Admiral Insurance (Gibraltar) Limited to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 April 2024.

Fiona Robinson
Ombudsman