

## **The complaint**

Mr T complains that West Bay Insurance plc held him at fault for a claim made on motor insurance policy. He wants dashcam footage he provided reviewed by an independent person.

## **What happened**

Mr T was involved in an incident with another driver, and he told West Bay that he wasn't at fault. West Bay opened a claim and investigated the incident. Mr T provided his version of events, and dashcam footage to West Bay. West Bay then held Mr T liable for the incident. It paid Mr T compensation for its poor communication during the claim. But Mr T remained unhappy with the fault claim on his record and the increase in his premium at renewal.

Our Investigator didn't recommend that the complaint should be upheld. She thought West Bay had reasonably considered Mr T's version of events, and the other evidence available, in reaching its liability decision. She thought it was entitled to do this by the policy's terms and conditions. So she thought West Bay hadn't treated Mr T unfairly.

Mr T replied that he thought the other driver had attempted to overtake him when it was unsafe to do so. Mr T asked for an Ombudsman's review, so his complaint has come to me for 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 can see that Mr T is adamant that he wasn't at fault for the incident. He's explained that he's a very experienced and careful driver, and I have no reason to doubt this. I can understand that West Bay's decision to hold him liable must be very frustrating for him. Mr T has explained that this will affect his No Claims Discount (NCD) and his premiums.

Mr T said he had pulled out from the left lane into the right hand lane in order to avoid a stationary bus when an HGV collided with him. But the other driver said Mr T had overtaken the bus without checking and so had hit his vehicle.

The Investigator has already explained that it isn't our role to decide who was responsible for causing the accident. This is the role of the courts. Instead, our role in complaints of this nature is simply to investigate how the insurer made the decision to settle the claim. Did it act fairly and reasonably and in line with the terms and conditions of the policy? And has it treated Mr T the same as someone else in his position.

West Bay is entitled under the terms and conditions of its policy with Mr T to take over, defend, or settle a claim as it sees fit. Mr T has to follow its advice in connection with the settlement of his claim, whether he agrees with the outcome or not. This is a common term in motor insurance policies, and I do not find it unusual. Insurers are entitled to take a commercial decision about whether it is reasonable to contest a third party claim or better to compromise.

That said, we expect an insurer to reasonably investigate a claim and consider the evidence available before making its decision on liability.

The evidence that West Bay had to consider was Mr T's and the other driver's versions of events and dashcam footage provided by Mr T. It wasn't able to view dashcam footage provided by the other driver.

It thought the footage showed Mr T pulling out to overtake the parked bus when he collided with the already established HGV. I'm satisfied that it reasonably thought the onus was on Mr T to check that the path was clear before making this manoeuvre. But Mr T said he hadn't seen the HGV at all, which I think implies that he hadn't checked his mirrors before making the manoeuvre. And Mr T has told us that he didn't check his mirrors as he was following the flow of traffic ahead of him.

I can see that at one stage West Bay thought it may be able to settle the claim as 50/50 split liability. But it consulted its legal team and then decided it wouldn't be able to defend Mr T in court, so it accepted liability in full.

So I'm satisfied that West Bay reasonably investigated the claim and considered the evidence available before making its decision on liability. I think it's entitled to do this by the policy's terms and conditions, so I can't say it did anything wrong in this. And I don't require West Bay to do anything further.

West Bay agreed that its level of service during the claim journey had been wanting. It said it hadn't kept Mr T updated about the claim and hadn't responded to his requests. I also think it could have progressed the claim more actively and so avoided delays in settling it. West Bay paid Mr T a total of £225 compensation for this. I think that's in keeping with our published guidance for the impact this level of service had. So I think that's fair and reasonable.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 1 July 2024.

Phillip Berechree  
**Ombudsman**