

The complaint

Mr A complains about Mulsanne Insurance Company Limited (“MIC”) and their decision to settle in full a third-party claim made against his motor insurance on a fault basis. Mr A also complains about the way his claim was handled during this process.

What happened

The claim and complaint circumstances are well known to both parties, so I don’t intend to list them chronologically in detail. But to summarise, Mr A held a motor insurance policy that was underwritten by MIC. The policy itself was arranged and administered through a broker, who I’ll refer to as “IG” and the policy was underwritten on behalf of MIC by another company, who I’ll refer to as “P”. As P were acting on behalf of MIC, I’ll refer to any actions taken by P as if they were made by MIC directly.

In January 2023, Mr A was involved in a road traffic accident, and he made IG aware of this for notification purposes only. IG compiled a statement of fact (“SOF”) through a company working on their behalf, which detailed the accident circumstances.

Some time later, the third-party driver contacted MIC to make a claim on Mr A’s policy for the damage caused to their vehicle. MIC assessed the claim, taking into consideration the SOF forwarded to them by IG, alongside the third-party images and testimony. And having done so, they accepted full liability, settling the claim on this basis. Mr A was unhappy about this, so he raised a complaint.

Mr A didn’t think MIC’s decision to settle the claim on a fault basis was a fair one. And he was unhappy with the service he’d been provided during the claim process. So, he wanted to be compensated for the inconvenience this had caused, and for the claim status to be changed. MIC didn’t uphold Mr A’s complaint and so, he referred his complaint to us.

Our investigator looked into the complaint and upheld it in part. They thought MIC had settled the third-party claim fairly, within the terms and conditions of the policy Mr A held. But they didn’t think MIC had communicated with Mr A as they would’ve expected and so, they recommended MIC pay Mr A £100 to recognise the distress and inconvenience this caused.

MIC accepted this recommendation. But Mr A didn’t. He disputed the information contained in the SOF MIC had relied on when making their decision. So, he maintained his belief that the way the claim had been settled was unfair. Our investigator explained the SOF was compiled by IG, who were a separate entity to MIC. So, any issue with the SOF would need to be raised with them. And because of this, they explained their view remained unchanged. Mr A continued to disagree and so, his complaint has been passed to me for a 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.

Having done so, I’m upholding the complaint for broadly the same reasons as the

investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Before I explain why I've reached this decision, I think it would be useful for me to explain exactly what I've been able to consider. This decision focuses solely on the actions of MIC, and any company working on their behalf. And crucially, IG weren't, as they were acting separately in their role as the broker and intermediary. So, any issues Mr A has regarding IG, such as the information compiled in the SOF, would need to be handled as a separate complaint and it hasn't impacted the decision I've reached.

I've first thought about what I think is the crux of Mr A's complaint, which centres around the way MIC settled the third-party claim. And when doing so, I've carefully considered the policy terms and conditions. These explain within "*Part 10 Making a Claim*" that MIC "*will be entitled to admit liability on behalf of you or any person claiming under the policy*". So, I'm satisfied MIC acted within the policy terms when taking the decision to admit liability, without the agreement of Mr A.

But I would also expect this decision to be a fair one. And to decide whether I think it was, I've thought about what I think another insurer is most likely to have done, in the same situation with the same evidence available to them. And in this case, I note MIC were in possession of a SOF which stated that Mr A had opened his door, from a stationary position, into the third-party who was travelling down the adjoining road. Considering this, and the fact it fit the third-parties testimony, I think it's most likely another insurer would've chosen to accept full liability, as it was the action of Mr A that led to the damage caused to the third-party vehicle. So, I don't think I can say MIC were unfair when settling the claim as they did, based on the information available to them. And because of this, I don't think they need to do anything more regarding this aspect of Mr A's complaint.

But I do note MIC have accepted our investigators view, and recommendation, surrounding the way they communicated with Mr A during the claim. So, I think it's reasonable for me to assume it's not in dispute by either party that MIC acted unfairly here and so, I don't intend to discuss the merits of this complaint in further detail. Instead, I've turned to what I think MIC should reasonably do to put things right.

Putting things right

Any award or direction I make is intended to place Mr A back in the position he would've been in, had MIC acted fairly in the first place.

In this situation, had MIC acted fairly, I think Mr A's claim would still have been settled as it was.

But I do think MIC could've done more to proactively update Mr A. And if they had, I think this would've prevented some of the distress and inconvenience caused to Mr A when he realised a claim had been made and settled against him as well as him then chasing MIC to understand why this decision was taken.

Our investigator recommended MIC pay Mr A £100 to recognise this distress and inconvenience. And I think this payment is a fair one, that falls in line with our service's approach and what I would've directed, had it not already been made.

I think it fairly addressed the inconvenience and emotional distress Mr A would've felt due to MIC's lack of updates, and failure to give Mr A all the information he could've been given at certain times. But I think it does also consider the fact I think MIC did settle the claim fairly, in

line with the policy Mr A held. So, this payment is one I'm directing MIC to make.

My final decision

For the reasons outlined above, I uphold Mr A's complaint about Mulsanne Insurance Company Limited and I direct them to take the following action:

- Pay Mr A £100 to recognise the distress and inconvenience he's suffered due to their lack of adequate communication.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 May 2024.

Josh Haskey
Ombudsman