

The complaint

Mrs J complains about Mulsanne Insurance Company Limited's (Mulsanne) poor claim handling and its failure to pursue a non-fault liability decision, following an accident when driving, under her motor insurance policy.

What happened

Mrs J was involved in an accident in December 2022. Another driver opened the door of their car as she was driving past, causing damage. She made a claim to Mulsanne, and it arranged for the repairs.

Mrs J complained about Mulsanne's handling of the claim. This was referred to our service under a different reference concerning issues up to 6 March 2023. Mrs J is unhappy with how Mulsanne continued to deal with her claim post this date. She says she has yet to receive her policy excess back and has received no contact to confirm whether the claim is recorded as non-fault.

Mrs J contacted our service about her subsequent complaint. We contacted Mulsanne and asked it to investigate and respond to the concerns raised. It didn't respond within the eight weeks response time. So, Mrs J asked our service to consider the matter.

Our investigator upheld Mrs J's complaint. He says there is no evidence of Mulsanne contacting her with updates on the liability outcome for her claim. He asked the business what the position was. It explained the claim had been closed due to receiving no response from the third-parties insurer (TPI). It was subsequently established that Mulsanne has recorded the claim as non-fault. But it hadn't informed Mrs J.

Our investigator thought Mulsanne had prejudiced Mrs J's position due its poor handling of the claim. He thought it was reasonable to expect the claim would've been settled as non-fault much sooner. And that Mrs J would've had her excess payment returned. Because of the distress and inconvenience Mulsanne caused he says it should pay her £650. And pay back her policy excess.

Mrs J accepted this outcome. Mulsanne accepted initially. It then responded to say it had changed its mind. It says if liability is accepted by the TPI Mrs J can claim her excess back from it directly. However, it accepted it had provided a poor service and agreed £650 compensation was fair. Because it didn't agree in full Mulsanne asked for an ombudsman to consider the complaint.

It has been passed to me to decide.

I issued a provisional decision in May 2024 explaining that I was intending to uphold Mrs J's complaint. Here's what I said:

provisional findings

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 my intention is to uphold Mrs J's complaint. Let me explain.

Any issues relating to Mrs J's claim that occurred before 6 March 2023 are subject to her earlier complaint. I won't consider those issues. My focus here is on Mrs J's concerns post 6 March. This includes Mulsanne's communication, the liability outcome, and the lack of a refund of Mrs J's policy excess payment.

I've read the claim records provided by Mulsanne. I can see that Mrs J disputed liability for the accident. This was noted early on in the claim on 17 January 2023. A record dated 6 March 2023 says "T/P disputing liability". But I can't find any other reference that shows contact Mulsanne made with, or received from, the TPI regarding liability for the accident.

I asked Mulsanne if it was actively pursuing the TPI for its costs and to establish liability for the accident. Following this request, it contacted Mrs J and asked her for a statement and diagram relating to the circumstances of the accident. It also asked her for any CCTV footage or dashcam recording she might have.

Mulsanne contacted our service to explain that its claim handler needs to respond to the TPI with respect to its dispute over liability. It says if Mrs J doesn't have any of the information it's requested the claim will almost certainly be decided as split liability. Mulsanne says it can't pay Mrs J's excess fee as this is an uninsured loss.

I acknowledge that Mulsanne says it recorded the claim as non-fault. But this doesn't help Mrs J obtain a refund of her policy excess payment. Unless the TPI acknowledges that its insured is fully or partially to blame she can't obtain a refund.

Having considered Mulsanne's response I don't think it's treated Mrs J fairly. It's only now asked her for information to support her account of the accident. Similarly, the TPI disputed liability in March 2023. Mulsanne hasn't responded.

The loss occurred in December 2022. When liability is disputed it can take some time for this to be decided. But Mulsanne's lack of action has clearly delayed progress by well over 12 months. It's not yet known what the liability outcome will be. Once this is known, and if Mrs J is considered not at fault, or partially at fault, she can claim some or all of her excess payment back. But Mulsanne is correct to say that this is an uninsured loss. This isn't something it is responsible for. So, I don't agree with our investigator that Mulsanne should pay this amount to Mrs J.

That said Mulsanne handled Mrs J's claim very poorly. It has caused a significant delay in a liability decision being reached. This has caused her a great deal of frustration, inconvenience, and distress, given the lack of action and communication. Mulsanne has potentially prejudiced the liability outcome because of the delays. Mrs J can complain to the business about this if she isn't satisfied with the eventual outcome. But because of the poor service it provided to date and the impact this has had over a considerable period, it's reasonable that it pays her compensation. I think £750 is fair in these circumstances.

I said I was intending to uphold this complaint and Mulsanne should pay Mrs J £750.

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Mulsanne didn't respond.

Mrs J responded to say £750 compensation isn't close to covering the continued distress

she faces due to Mulsanne's negligence. She reiterates the poor standard of communication and delays in the business dealing with the matter and asks that I reconsider the point about Mulsanne settling her claim as non-fault.

Mrs J also queries if £750 is payable in addition to £650 compensation Mulsanne originally paid.

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 not persuaded that a change to my provision decision is warranted.

By no means is my intention to diminish the distress and frustration Mrs J experienced. But having considered the evidence I think a total payment of £750 is fair in these circumstances. This amount is in line with our services published approach to awarding compensation.

I note Mrs J's comments that this matter is ongoing. As I wrote in my provisional decision, if she isn't satisfied with the eventual liability outcome, she can make another complaint to Mulsanne. But for the complaint I've considered, I'm satisfied that the compensation I set out is fair.

For clarity it was our investigator who originally proposed £650 compensation. Mulsanne agreed to pay this amount, but because it didn't agree to his view in full the matter was referred to me for a decision. I said compensation is warranted. But a higher payment of £750 is fair. This is the total amount payable if Mrs J accepts my decision.

My final decision

My final decision is that I uphold this complaint. Mulsanne Insurance Company Limited should:

- pay Mrs J £750 compensation in total for the inconvenience and distress it caused her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 8 July 2024.

Mike Waldron
Ombudsman