

The complaint

Mr R has complained that Admiral Insurance (Gibraltar) Limited recorded a claim made on his motor insurance policy as a 50/50 fault claim.

What happened

The details of this complaint are well known to both parties, so I will not repeat them again in full detail here. But to briefly summarise, Mr R is unhappy with the decision to accept 50% fault on a claim he made following an accident.

Mr R says Admiral failed to investigate properly because he provided details of an independent witness who would corroborate his version of events, but Admiral didn't contact the witness.

Admiral said it referred the matter to an independent arbitrator who deemed it 50/50, so it told Mr R the liability decision could not be changed. But it offered to allow Mr R's no claims discount (NCD) and to waive his policy excess. It also offered to pay Mr R £200 compensation

One of our investigators looked into Mr R's complaint and thought it should be upheld. He said Admiral hadn't conducted a reasonable investigation, and had it done so the eyewitness statement could have made a difference. And although Admiral passed matters to an independent arbitrator, the investigator said they weren't made aware about the potential eyewitness. Our investigator said Admiral should record the claim as bonus allowed (fault) and that it should increase the compensation to £300.

Neither side accepted our investigator's opinion. Mr R thought more compensation should be paid, whereas Admiral maintained the £200 it had already offered was sufficient.

As no agreement had been reached, the complaint was passed to me to decide.

I was minded to reach a slightly different outcome to our investigator. So, I issued a provisional decision, to give the parties the opportunity to respond before I reached my final decision. Here's what I said:

“What I've provisionally 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 minded to reach the same overall outcome as our investigator, save for a change to the way in which I think Admiral needs to record the claim. I'll explain why.

Admiral's investigation report suggests it doesn't accept its claim investigation was inadequate. But despite this it has offered Mr R compensation as a gesture of goodwill – in the form of allowing his NCD, waiving his policy excess and offering to pay him £200.

In my view, Admiral failed to conduct an adequate investigation before deciding on liability. I say this because Mr R provided detailed testimony about why the third-party was fully at fault and provided contact details for an eyewitness who he said would corroborate his version of events. But despite this Admiral failed to engage with the eyewitness or to make the independent arbitrator aware of their existence. I don't think this was correct or fair.

Admiral says that even if it had contacted the eyewitness, there is no guarantee they'd have responded, or if they had, that it would have been able to secure a better outcome than 50/50. I appreciate both are possibilities, but it's also possible the eyewitness testimony would have been forthcoming, and sufficient to demonstrate no fault on Mr R's part. And ultimately Admiral had the opportunity to contact the witness, which I think it ought to have done, but it failed to do so.

In these circumstances, I think it would be fair for Admiral to allow Mr R's NCD (which I note it has done already). But while our investigator said Admiral should ensure the claim was recorded as bonus allowed (fault) because Admiral had paid out on the claim, I don't agree this is fair. Instead, in addition to allowing Mr R's NCD, I think Admiral should record the claim as bonus allowed (non-fault) both internally and externally.

Having a claim recorded as a fault claim would be distressing for anyone. But I think it would especially be distressing in this case for Mr R, given he strongly disputed he was at fault and that he provided details for an independent witness to support his position – which was completely ignored. So, I agree with our investigator that Admiral should increase the compensation to a total of £300, to recognise the avoidable distress and inconvenience Mr R has suffered.

I appreciate Mr R feels this amount is too low given the length of time his claim took to resolve and the time he spent chasing matters. But when coupled with the waiving of his policy excess (£400), I think the overall level of compensation is sufficient to reflect the level of impact Admiral's mistakes have had on him."

I asked both sides to provide any further comments or evidence they wanted me to consider within two weeks.

Both sides responded sooner than that to confirm they had nothing further they wanted to add. So, as both sides have responded, I'm moving ahead with my 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.

In the absence of any new evidence or arguments, I've reached the same conclusions I reached in my provisional decision – and for the same reasons.

My final decision

For the reasons I've explained above, and in my provisional decision, I uphold Mr R's complaint in part.

Admiral Insurance (Gibraltar) Limited must:

- Change the way Mr R's claim is recorded, both internally and externally, to bonus allowed (non-fault) – if it isn't already recorded as such
- Increase its compensation award from £200 to £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 17 July 2024.

Adam Golding
Ombudsman