

The complaint

Mr A complains about Watford Insurance Company Europe Limited (“WIC”) and the way they settled a third-party claim made against his motor insurance policy.

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, underwritten by WIC, when he was involved in a road traffic accident.

Mr A contacted WIC to notify them of this but didn’t make a claim, as he didn’t think his car sustained any damage due to the accident circumstances. And a few days later, Mr A sold the car. But shortly after Mr A’s notification, WIC received a claim from the third-party insurer (“TPI”).

WIC made Mr A aware of this as well as arranging for an inspection of Mr A’s car, now owned by another party. WIC considered the report from this inspection, alongside the other evidence available to them including Mr A’s testimony. And having done so, they decided to accept the claim and settle it on a fault basis, which in turn impacted Mr A’s no claims discount (“NCD”). Mr A was unhappy about this, so he raised a complaint.

Mr A was unhappy with WIC’s decision to settle the claim on a fault basis, as he didn’t think the accident caused the damage being claimed for by the TPI. He also complained about the service WIC provided to him directly, which he felt prejudiced his ability to contact the third-party and try to settle the claim without the use of their insurers. So, Mr A wanted the accident to be removed from the CUE database and his NCD restored.

WIC responded to the complaint and didn’t uphold it. They thought they had investigated the liability aspect of the claim fairly and settled the claim in line with the policy terms and conditions. And they didn’t think they had prejudiced Mr A’s position, explaining why there was no guarantee the third-party would’ve agreed to settle outside of their insurance. So, WIC didn’t think they needed to do anything more. Mr A remained unhappy with this response, so he referred his complaint to our service.

Our investigator looked into the complaint and didn’t uphold it. They thought WIC had acted fairly, and in line with the terms of the policy, when settling the claim on a fault basis. And they didn’t think Mr A had been prejudiced during the claim process. They also recognised Mr A hadn’t received the engineer’s report from WIC but didn’t feel the impact of this warranted any further action and so, they didn’t think WIC needed to do anything more.

Mr A didn’t agree, providing several comments setting out why. These included, and are not limited to, Mr A’s continued belief that the third-party had brought a fraudulent claim and that WIC failed to investigate this correctly, considering the information provided in the engineer’s report. He maintained that the damage on his car was pre-existing, and that the accident circumstances couldn’t have led to the damage the TPI were claiming for. He felt that had the claim progressed to court, the claim would’ve been found in his favour and so, he maintained his request for the claim to be removed from CUE and for his NCD to be

reinstated. As Mr A didn't agree, the 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 not 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.

First, I want to recognise the impact this complaint has had on Mr A. I appreciate Mr A feels strongly about the accident circumstances, the lack of damage caused and so, the validity of the TPI claim and the liability decision. And I recognise Mr A took out the policy with WIC to help assist him both practically and financially in a situation such as the one he found himself in. So, when WIC chose to settle the claim in a way Mr A didn't agree with, and he felt this was down to WIC's failures in their investigations, and this decision created a financial loss to Mr A, I can understand why he'd feel unfairly treated and choose to complain.

But for me to say WIC should do something differently, for example remove any record of the accident and reinstate his NCD, I'd first need to be satisfied WIC have done something wrong. So, I'd need to be satisfied WIC failed to act within the terms and conditions of the policy Mr A held when settling the claim as they did. Or, if I think they did act within these, I'd need to be satisfied WIC acted unfairly in some other way. In this situation, I don't think that's the case and I'll explain why.

But before I do, I think it would be useful for me to explain what I've been able to consider, and how. It's not my role, nor the role of our service, to re-underwrite the claim as we don't have the expertise to do so. So, I won't be speculating on who I think was responsible for the accident, or how it should've been settled. And as we are an alternative to the courts, I'm unable to comment or speculate on what I think a court may have decided, had court action been taken.

Instead, it is my role to consider the actions WIC have taken to decide whether they have acted fairly and reasonably. To do this, I've considered all the evidence available to WIC at the time of their decision and thought about what I think another insurer is most likely to have done, in the same situation.

I've first thought about the liability decision itself, which I think is the crux of Mr A's complaint. I note Mr A's made it clear he disagrees with this decision, and I want to reassure him I've considered everything he has put forward, even if I haven't commented on it specifically.

But I note in the policy terms and conditions, it states clearly that WIC can *"take over and conduct the defence or settlement of any claim"*. So, I think WIC were entitled to settle the claim as they saw fit, with or without Mr A's agreement. And I want to make it clear this is a standard policy term commonly seen in most policies across the industry.

So, I don't think I can say WIC failed to act within the policy terms when settling the claim as they did. But as I've set out above, I must also be satisfied they acted fairly and reasonably when doing so.

As I've already explained, it's not my role to re-underwrite the claim or speculate on who I think was liable for the accident. This includes the damage then claimed for. But I would still expect to be satisfied that WIC took reasonable steps to investigate and validate the claim

when deciding on liability.

In this situation, I can see they ensured Mr A provided an accident report form, which they considered against the TPI's testimony. And alongside this, they arranged for an independent inspection of Mr A's car, which had been sold shortly after the accident itself.

Having reviewed the system notes, all the testimony and evidence provided against the accident circumstances and the damage the TPI is claiming for, which was to the rear of their vehicle, I don't think I've seen anything that satisfies me WIC were unfair to settle the claim on a fault basis, as I think another insurer is most likely to have taken the same decision, in the same situation.

I think it's clear they did take Mr A's testimony and opinion on board. And while I appreciate Mr A disputed the findings in the inspection report, saying all the damage to his car was pre-existing, I don't think this is likely to have changed the liability decision even if it had been explored further as ultimately, Mr A notified WIC of an accident who then received a claim from a third-party with damage to the rear of their car. And even if there was a situation where Mr A's car had minimal to no damage to his car, this doesn't necessarily prove that the TPI claim was fraudulent as it was already accepted there was an accident, as notified by Mr A before the TPI claim was received.

And I don't think WIC acted unreasonably when choosing to settle the claim without taking court action, considering the value of the claim brought by the TPI was low and that WIC are expected to ensure any legal action is proportionate to the claim in order to mitigate the costs of the claim overall. And this benefits Mr A, as it keeps the value of the claim down. I also think another insurer is likely to have taken the same decision, with the same considerations.

So, while I recognise Mr A is unlikely to agree and I don't intend this decision to in any way discredit or take away from his own recollection of the accident and the damage caused, I don't think I've seen any evidence that persuades me WIC acted unfairly or unreasonably when choosing to settle the claim on a fault basis. So, I don't think I can say any record of the claim should be removed, or that Mr A's NCD should be reinstated as WIC have incurred a cost on the claim.

I also want to reassure Mr A I have thought about his concerns about being prejudiced during the claim process. But crucially, I don't think there is any evidence that persuades me Mr A would've been successful in settling the claim outside of insurance, even if he had been given details of the third-party, which WIC weren't legally allowed to provide. Instead, all I can be sure of is the fact that the third-party chose to claim, and arrange repairs, through their own insurer. So, I don't think I can be satisfied that the way WIC handled the claim prevented Mr A from being able to affect the third-party decision here. And even if I was able to say otherwise, WIC had a responsibility to indemnify Mr A against any claim brought against this policy and so, I think they were fair to proceed on this basis as soon as the TPI claim was received.

Finally, I note that Mr A felt WIC failed to provide him with the inspection report. But from the notes I've seen, I can't see this was requested until the complaint process. And any requests made, or agreements reached, in the complaint handling process is something that falls outside of our services jurisdiction to consider.

But even if this wasn't the case, I note Mr A has now received this report through our service. And I don't think Mr A's failure to receive this report has impacted the overall

settlement of the claim or impacted him in a way that would require any further action to be taken.

So, because of all the above, I don't think WIC need to do anything more on this occasion.

My final decision

For the reasons outlined above, I don't uphold Mr A's complaint about Watford Insurance Company Europe Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 2 October 2024.

Josh Haskey
Ombudsman