

## **The complaint**

Mr P complains that One Insurance Limited unfairly settled a claim he made on his motor policy in favour of the third-party without a full investigation.

## **What happened**

Mr P was involved in a road traffic accident with a third-party motorcycle. He said the third-party didn't stop and drove into the side of his stationary car. Mr P called the police who drug tested the third-party and arrested them at the scene.

One Insurance admitted liability to the third-party's insurers and dealt with the claim. They held Mr P liable for the accident and said as he'd pulled out of a side road and then stopped in front of the third-party, he would be considered at fault.

Mr P says his claim was delayed and there were lots of problems finalising everything. He said it took seven weeks to get his car repaired, and he was initially left without a car, and then had to swap courtesy cars, as well as being referred to three different repairers. Mr P also said his car was incorrectly valued, which meant One Insurance treated his car as being uneconomical to repair, however they later reversed this decision and repaired it instead.

Mr P complained to One Insurance and said they didn't listen to his version of events or consider the police's evidence when deciding who was at fault for the accident. He said they provided a poor and stressful claim's experience which had a significant impact on him. One Insurance didn't uphold the complaint – they said they couldn't prove the third-party had enough time to stop to avoid the collision. Mr P wasn't happy with One Insurance's response to his complaint – so he brought it to this Service.

Our Investigator considered the complaint and recommended that it be upheld in part. He thought One Insurance had reasonably investigated the claim and shown why their decision to admit liability was fair. But he didn't think they had handled the claim very well, so he recommended One Insurance should pay £150 compensation to acknowledge this.

Mr P agreed with our Investigator's view, but One Insurance didn't – they said Mr P only complained about the liability decision and that any claims handling issues were resolved before the complaint was raised with our Service. They asked for an Ombudsman to review the complaint.

## **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.

It's not this Service's role to determine who is liable for a collision. That's a matter for a court to decide. But what I can do is decide whether I think One Insurance investigated Mr P's claim fairly and reached a reasonable outcome based on the available evidence. Having looked at how One Insurance considered liability for the claim, I think they've acted fairly – I'll explain why.

Mr P reported he had been emerging from a side road at the time of the accident, and then stopped when he noticed the third-party driving towards him. Mr P said the third-party would've had plenty of time to alter his course to avoid a collision and says the third-party's conviction due to drug driving would have had a bearing on their reaction time.

In One Insurance's final response to the complaint, they said:

*"This decision has been made as we cannot establish that the third party would have had sufficient time to avoid the collision and that there (sic) ability to come to an immediate stop would have been diminished due to their vehicle being a motorcycle."*

I'm satisfied One Insurance have reasonably considered the circumstances of the accident and concluded that Mr P would, on balance, be held at fault for the accident. When taking into account Mr P's own testimony, One Insurance said he confirmed he'd pulled into the road, and therefore he would be required to give way to oncoming traffic at the time. I find this to be a reasonable conclusion to make.

There's nothing to show that the third-party was as far away from Mr P's vehicle as he says, to allow them to have altered their course. And so, I think One Insurance's approach in settling the claim, due to not being able to demonstrate exactly how the accident happened, or whether the third-party had enough time to stop, was reasonable in the circumstances - given there was no other evidence available from independent witnesses or dash cam footage.

I can understand why Mr P feels frustrated that a fault claim has been recorded against him when his car was hit by a driver who was ultimately found to be driving under the influence of drugs. I can see he's provided evidence from the police which shows the third-party pleaded guilty and was later convicted of this offence.

I take all of this into account, and I've thought carefully about the way One Insurance applied these points to their liability decision, and whether this made a material difference in the way this claim was settled. But I don't think this changes the outcome One Insurance came to. As One Insurance explained, the drug driving conviction wouldn't change Mr P's responsibilities as a road user in giving way to a vehicle already established on the road he was entering.

One Insurance is also entitled under the terms and conditions of the policy with Mr P to take over, defend, or settle a claim as they see fit. The policy terms say:

*"Your insurer will handle, defend and settle any claim, subject to the cover provided by this policy."*

This is a usual term in most motor insurance policies, and I don't find it unreasonable as long as it's applied fairly. Insurers are entitled to take a commercial decision about whether it's reasonable to contest a third-party claim or better to compromise.

While I can understand why Mr P feels strongly that he is being held responsible for causing this accident when he feels he was not at fault, I don't think One Insurance made an unreasonable decision – so I don't think they've acted unfairly here.

In respect of the other complaint points Mr P has raised, I can see One Insurance disagreed with our Investigator making a finding in respect of the total loss and repair process, the provision of a replacement car, as well as general claim's delays. They said these matters were resolved before any complaint escalation as the hire was extended with the costs being covered by One Insurance.

I can see Mr P raised concerns about the general claim's handling process and having to chase responses on the progress of the claim before One Insurance issued their final response to the complaint. I'm therefore satisfied One Insurance had the opportunity to address these points, even if they didn't include reference to them in their final response.

But I'm not persuaded all the issues Mr P raised had been resolved prior to coming to this Service. I say this because Mr P raised some of these issues within his complaint form, and the issues around claim's delays weren't anything to do with the courtesy car period being extended. So, as I can't see anything to show me that One Insurance acknowledged and resolved these issues, I'm not ultimately satisfied they were all resolved when the complaint came to our Service. It follows that I'm satisfied we can look at them and make a finding on how One Insurance should put them right for Mr P.

### **Putting things right**

From looking at the claim's process, I do think Mr P spent a lot of time chasing One Insurance for updates, and he's had a poor and stressful claims experience over and above what I would consider to be normal. I haven't detailed everything here – but I've considered everything Mr P has said about the impact on him.

I think awarding a sum of compensation is appropriate in the circumstances, and I think £150 adequately reflects the impact One Insurance's actions had on Mr P.

### **My final decision**

My final decision is that I uphold this complaint and I require One Insurance Limited to pay £150 in compensation for the distress caused to Mr P directly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 6 November 2024.

Stephen Howard

**Ombudsman**