

The complaint

Mr T complained that Acromas Insurance Company Limited (“Acromas”) unfairly held him 100% at fault for an accident which he claimed for under his car policy. Mr T had representation for the claim, but for ease and simplicity, I’ll only refer to Mr T.

What happened

When Mr T made a claim following a small collision, Acromas investigated what had happened.

Acromas said *“I have liaised with the Personal Injury Department who have been handling your claim. They have advised the Dashcam footage from the Third Party identifies road markings of two arrows. One going straight ahead and the second for a right turn. This would be two separate lanes. My understanding is you changed lanes to turn right but then decided to go back into the left-hand lane, where unfortunately you collided with the Third Party. Therefore, your claim will be recorded as fault due to the liability resting with you”*.

Mr T disputes this, he said *“My dad was involved in a collision. In brief, he was driving up a road that was single lane (no lane markings) and a van undercut him and they collided. The single lane eventually widened to become two lanes (with lane markings). But at the point of collision, and 300 yards prior, there were no lane marking. However, [Acromas] are saying that my dad is at fault. I believe this is because they either can't be bothered to defend him, or don't understand the highway code”*.

Mr T says the decision has left him stressed.

Our investigator decided to uphold the complaint. She didn’t think Acromas had reached a fair conclusion to its investigation, so she asked it to reconsider the claim and she awarded £150 compensation for the distress and inconvenience caused. Acromas didn’t agree, so the case has been referred to an ombudsman.

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 its final response, Acromas said *“I feel it would be beneficial to advise you that under the Terms & Conditions of your Policy, page 21, Accidents and Claims we have the right to take over and conduct the defence and settlement of any claim in your name or in the name of any other person insured by your Policy”*.

It is normal for insurers to have such a clause in its terms and conditions. It allows insurers to use their expertise and experience to progress the claims in an efficient way, rather than pursuing claims in court that don’t have a chance of succeeding. Ultimately, it reduces costs for the insured through lower premiums.

However, this doesn't mean I'd expect an insurer not to fully investigate a claim and reach a fair conclusion. I'd only expect an insurer to decide the correct route after been certain of the facts. In this claim, I don't think Acromas did investigate the claim reasonably.

In its final response Acromas said Mr T *"changed lanes to turn right but then decided to go back into the left-hand lane, where unfortunately you collided with the third party"*. It said that it is for this reason it held Mr T at fault for the accident.

However, Mr T has argued he didn't decide to move back into the left-hand lane. He said he was going to his son's house, a route he frequently goes. He said he was clear on where he was going, so he wouldn't have a need to turn back.

In dealing with complaint, Acromas has provided further analysis of the accident, using dashcam footage and google images. At no point in this later analysis does Acromas refer to Mr T changing his mind to go back into the left-hand lane. Instead, their analysis focuses on the road layout and the need for Mr T to edge to the right-hand side of the lane to turn right. I don't think this is the same thing. Therefore, I can't say Acromas' initial conclusions were fair. So, I uphold this complaint.

Therefore, I require Acromas to re-consider the claim. Mr T should still bear in mind, if Acromas think it's a strong possibility Mr T wouldn't reduce his liability in a court of law, it can still progress the claim with Mr T at fault. As I've explained, this is set out in the terms and conditions of the policy.

However, I'm persuaded there is no evidence of Mr T moving back into the left-hand lane. I appreciate there is an expectation Mr T might have edged right, ready to turn right. But, equally, I think Mr T would have a reasonable expectation that a vehicle wouldn't try and squeeze through a gap that wasn't there. So, I'd like Acromas to bear these points in mind and be able to explain to Mr T clearly its outcome and reasoning when it reconsiders the claim.

If it still thinks it can't reduce the liability for Mr T, then Acromas under the policy are still entitled to move the claim forward as it sees fit in a reasonable manner. As Acromas has unfairly attributed poor driving and decision making to Mr T. I think this is unfair and this has caused distress for Mr T, so I award £150 in compensation.

My final decision

My final decision is that I uphold this complaint. I require Acromas Insurance Company Limited to:

- Reconsider the claim
- Pay Mr T £150 compensation – for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 30 October 2024.

Pete Averill
Ombudsman