

## **The complaint**

Ms A has complained about the handling of a claim under her motor insurance policy by Liverpool Victoria Insurance Company Limited ("LV").

## **What happened**

Ms A's vehicle was involved in an incident whilst in a car park on 2 December 2022. A third-party alleged that their car was hit and damage was caused.

Ms A maintained that there was no contact between the vehicles and that there was no damage on her car. Because of this LV arranged for an assessor to inspect her car. However, they say initial attempts were not possible as Ms A was away until towards the end of January. The inspection was therefore arranged for when she was back.

LV say they were not made aware the inspection had happened. They gave notice that they would conclude Ms A accepted the liability outcome and proceed to settle the third party's claim. They say this is what they did as they hadn't heard further from Ms A or the assessor. Ms A says that she was told by the assessor that there was no damage on her car from the incident and so she presumed the claim would be contested and nothing more was needed.

Ms A says she then noticed in April 2023 that her insurance renewal premium had increased significantly and that it was due in part to LV settling the third-party claim from 2 December 2022. Ms A says LV continued to fail to investigate it properly, despite her providing further evidence. She was also unhappy that they didn't always get back to her when they said they would and said she had been paying a higher insurance premium in the meantime because of this. She complained to LV.

LV responded to say they maintained their decision to settle the third-party claim. They said there was evidence from a witness, that they didn't feel they were able to disprove. They did however, offer Ms A £125 for the poor customer service she had received. Unhappy, Ms A brought her complaint to our Service for an independent review.

Our Investigator looked into it and didn't think LV had acted fairly. He said there was no witness statement, no video footage and the assessor's comments suggested there was no fresh damage to Ms A's vehicle at the time. He said they should record the accident as non-fault. He also said they should increase the compensation to a total of £500.

Ms A responded to accept the view of the investigator, but LV didn't. Amongst their points in reply, they said that Ms A had confirmed that there was someone at the scene who had witnessed the incident.

They also said the assessor didn't say the damage on Ms A's car was pre-existing and doesn't give their opinion on the age of the damage. However, they say they do give the opinion the damage is consistent with the alleged incident. They also didn't agree with the increase in compensation, saying that they weren't responsible for not being told about the inspection until Ms A contacted them in April 2023.

As no agreement was reached, the case has been passed to me to decide.

### **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 agree with the outcome reached by the Investigator. I'll explain why. I've focused on what I consider to be the pertinent points. That isn't meant as a discourtesy, it simply reflects the informal nature of our Service. I've set out the key issues I think are important here. And I've answered them below in turn.

#### Decision to settle the claim and Ms A's liability

As our Investigator explained, it isn't our role to say who is at fault for an accident. That is a matter for the courts. However, here it is my role to determine whether, based on the evidence provided so far, LV have acted fairly in settling the third-party claim with Ms A at fault. I don't think they have.

Whilst I note LV under the terms and conditions of Ms A's policy "*...have total control to conduct, defend and settle any claim*", I am able to ask them to change their recording of a claim where I don't think they have treated Ms A fairly. This is the case here.

My first consideration is whether LV were acting fairly in settling the claim and paying the third party, when they did. I don't think they were. Whilst they had given Ms A notice they would settle if she didn't have her car inspected, Ms A had this done by the time LV settled the claim. Whilst I appreciate LV hadn't been made aware of this or given a copy of the report, I don't believe that was Ms A's fault. It was a communication failing between LV and their chosen assessor.

I have then gone on to consider whether Ms A has been disadvantaged by this and I think she has, resulting in her losing any chance of defending the claim.

Ms A called LV immediately after the incident to state that a third-party alleged she had hit their car. I have listened to the call. She was consistent in it and has been throughout that there was no contact.

LV have maintained and justified their decision partly based on a witness being at the incident. However, there is no witness statement and Ms A has denied there being any witness present. She has been consistent in this from the original call and throughout the evidence I have been provided with.

LV settled the claim without reviewing their assessor's report. They have subsequently maintained their decision, but I consider the assessor's comments raises reasonable doubts over the claim and liability decision.

The assessor recommended an inspection of the third-party vehicle, and I haven't been provided with any evidence of one being completed. In regard to Ms A's car, the assessor also said, "*the insured will state the damage noted on examination is pre-existing and not associated with the claim under notice and can provide photographic evidence. I found no evidence of recent repairs having been undertaken to the front of the vehicle...general*

*scratches and marks consistent with a vehicle of this year and mileage. There was old damage to the right front bumper, Left front bumper and wheel, Arch moulding (missing). The vehicle condition and limitations of the information provided prevent an exact identification of any damage sustained in the alleged impact”.*

There was also no further video or CCTV evidence and none was sought. Ms A has also said from the beginning that she was travelling with two passengers who could provide statements but they weren't contacted either. I don't consider LV was entitled to rely on the evidence it did to reach its decision on the claim and they didn't carry out a fair and reasonable investigation into liability that was in line with Ms A's policy terms. LV are right in their submission to me that nobody can know for sure what the outcome of this claim would have been. And as explained, it isn't my role to say who is at fault. But due to the amount of time that has passed (limiting Ms A's and LV's ability to defend the claim now) and because the third-party has already been paid, I think the right thing to do would be to amend all databases to record the claim as non-fault.

#### Handling of the claim and communication

LV have offered Ms A £125 for the distress and inconvenience their errors caused. Mainly in not doing what they said they would and failing to get back to her and giving her updates. However, having considered the matter overall, I think a total figure of £500 fairly recognises the impact on her from these errors.

I say this not only in regard to the lack of call-backs and updates and failed promises. But also, the lack of communication with the assessor following the incident, failure to chase up the report, settling the claim on the back of this and not communicating any of this to Ms A. Subsequently causing Ms A distress when she saw her premium increase and the inconvenience of this matter ongoing for almost two years when it needn't do.

#### Information given in April 2023

Ms A has also complained that in April 2023, LV told her that if she provided evidence of pre-existing damage, they would remove the claim. However, based on a copy of this call, I agree with the investigator that Ms A wasn't given any guarantee. The associate said to her, *“I'll get some advice on it then to be honest, what we might have to do is just remove the claim from your policy”*. I therefore don't agree LV should compensate Ms A for choosing to take out a more expensive, short-term policy.

#### Summary

In summary, I don't think LV acted fairly in settling the third-party claim when they did. Due to the time that has passed and because the third-party has been paid out already, there would be no point reassessing the claim. There is sufficient doubt over the incident and Ms S has lost out on the opportunity to have it investigated properly and defended. It should be recorded as non-fault. The service provided has also fallen below what we would expect on several occasions. I think a total of £500 for the distress and inconvenience these errors caused is fair.

#### **Putting things right**

To put things right, Liverpool Victoria Insurance Company Limited should:

- Amend all databases, including the Claims and Underwriting Exchange (CUE), to show that the accident was non-fault.

- Send Ms A a letter confirming that has been done and stating that the outlay on the claim was paid in error.
- Pay Ms A a further £375 (total of £500) for the distress and inconvenienced caused.

**My final decision**

For the reasons given above, my final decision is that I uphold this complaint. I require Liverpool Victoria Insurance Company Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 28 January 2025.

Yoni Smith  
**Ombudsman**