

## **The complaint**

Miss L complains First Central Underwriting Limited is unfairly attempting to recover a third-party claim settlement cost from her.

## **What happened**

Miss L's car was insured by First Central. In early May 2022 Mr Y, whilst driving it, damaged a parked third party (TP) vehicle. The TP claimed, via an accident management company (AMC), for the loss against Miss L's First Central policy.

In late May 2022, First Central discussed the claim with Miss L. Its notes record her as explaining she and Mr Y incorrectly thought his own insurance would cover the loss under the driving other cars (DOC) cover. According to the notes, First Central explained it was obliged to deal with the TP claim, but would look to recover its costs from Miss L or Mr Y. Miss L is noted as wishing to try and settle with the TP. She agreed to let First Central know of her progress, with it advising if nothing is agreed it would settle and recover costs.

In mid-June 2022 Miss L called First Central to explain the TP wasn't responding to her. First Central provided her with the TP and AMC's contact details, again advising if nothing is agreed it would settle and recover. It also explained there was a potential car hire cost as part of the claim. In August 2022 First Central received a request from the AMC for hire and repair costs. In November 2022 it settled by paying £5,756 repair and £4,118 hire costs.

In November 2023 First Central wrote to Miss L. It noted Mr Y had been driving the car uninsured. It said he wasn't covered by her policy, because he wasn't a named driver. It explained, under the Road Traffic Act 1988 (RTA), it had to settle the TP's claim. It said it has the legal right to recover those costs from Miss L or Mr Y. It said it intended to recover them from her, offering a payment plan.

Miss L raised a complaint. She said Mr Y didn't have her express consent to use the car and was aware he wasn't a named driver on her policy. She had accepted her policy wouldn't cover the TP loss, asking after the incident to be kept informed of claim costs to allow for mitigation. She said First Central had failed to do that. She said the claim costs are excessive, considering what she knew of the damage. Miss L requested it provide various evidence - including of efforts to verify and minimise claim costs. She offered to assist First Central pursue Mr Y solely, as the driver responsible for the loss, for the outstanding sum.

First Central responded in February 2024. It said Miss L's initial report of the incident didn't indicate Mr Y had taken the car without her permission. It noted she had raised the possibility of her dealing with the TP directly. But it said it should have made it clearer the TP's insurers were unlikely to respond to her. It said it had told her what the reserve for the claim was, and had explained on occasion, that the final costs may be different. First Central accepted it should have informed Miss L of the final costs earlier, offering £50 compensation for failing to do so. But it said its failure to inform her hadn't affected the outcome.

Miss L, unsatisfied with that response, referred her complaint to the Financial Ombudsman Service. She said Mr Y had taken the car without her consent. She's unhappy First Central is pursuing her for around £10,000 in costs for an accident she didn't cause or permit. She considers First Central has failed to act in her best interest as a customer, by not directing the recovery action at Mr Y, but instead pursuing her as an easier target. She considers it acted negligently by accepting the TP costs without verifying the value of repairs or assessing mitigation steps. Miss L said First Central's handling of the matter has caused her distress.

Our Investigator felt First Central had handled the claim reasonably. He didn't recommend it do anything differently. As Ms L didn't accept that outcome, the complaint was passed to me.

I issued a provisional decision. In it I explained why I didn't intend to uphold Miss L's complaint. As its reasoning forms part of this final decision, I've copied it in below. I invited Miss L and First Central to provide any further comments or evidence they would like me to consider before issuing this final decision.

### ***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.*

*As this is an informal service I'm not going to respond here to every point or piece of evidence Miss L and First Central have provided. Instead, I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted. Having done so, I intend to find it was fair and reasonable for First Central to settle the claim and attempt to recover costs from Miss L.*

*Under the RTA an insurer is obliged to meet a court judgment against a person driving a car it insures, but who is not covered under the policy. It's because of this possible obligation that First Central settled the TP's claim. First Central, reasonably would not have wanted the matter to progress to court where costs would likely increase. It's not generally considered unreasonable by this Service for an insurer to act pro-actively in respect of this possible obligations by seeking to settle matters without waiting for a court judgment to be made.*

*Where the driver was using the car with the insured's permission, the RTA allows the insurer a right of recovery against the driver and the policyholder. If the driver was an unauthorised user or a thief the insurer has a right of recovery against the driver. With the requirements of the RTA in mind, I've first considered if it was reasonable for First Central to deal with, and settle, the TP claim. I then discuss its decision to recover costs from Miss L.*

### **settling the third-party claim**

*Liability for the loss doesn't seem to be in dispute. The TP's car was parked, so it seems reasonable that First Central accepted Mr Y as liable.*

*Under the RTA an insurer only has to settle an unsatisfied court judgment. In this case I haven't seen evidence of a court judgment. However, I'm satisfied it was reasonable of First Central, in order to reduce potential costs and avoid a judgment, to deal with the claim anyway.*

*Miss L expressed an interest from the outset in settling the claim herself directly with the TP. First Central's notes record it as being open to this possibility, but advising if there was no agreement it would need to settle. That's a reasonable approach.*

*A month or so later Miss L reported a lack of progress with the TP. A further month or so after that the AMC then requested claim payment from First Central. I'm not persuaded First Central's decision to settle within a few months of that request likely prejudiced Miss L's position or ability to defend the claim. There's no evidence to support the TP or AMC engaging with her, her appointing legal representatives or that she had a reasonable chance of success.*

*According to its notes, First Central sent Miss L a consent and indemnity (CI) form. CI's authorise insurers to deal with a claim and recover costs from the policyholder. I haven't seen anything to indicate Miss L signed the form. Despite that I consider it reasonable for First Central to have continued to deal with the claim, as it's entitled to take action to minimise its potential outlay – which it did by seeking to avoid this matter progressing to court. In addition there was no indication Miss L's attempts to settle directly would be likely to prove successful.*

#### *recovery from Miss L*

*For the reasons given above, I intend to find it was reasonable for First Central to deal with and settle the claim. Below I set out why I intend to find it fair for it to recover the claim costs from Miss L.*

*Miss L has said Mr Y took the car without her permission. Where the car was used without the policyholder's knowledge or permission, I might consider it unreasonable for an insurer to recover from them. However, I'm not persuaded it's unreasonable in the circumstances of this claim. As far as I've seen Miss L only stated Mr Y didn't have permission to use the car in November 2023. That was 18 months or so after the loss and 12 months after First Central had settled the TP's losses.*

*I haven't been provided with a recording of Miss L's initial call, in May 2022. But I'm satisfied, from the notes and what she's said subsequently, that she didn't advise First Central, at that time that Mr Y took the car without permission. Neither did Miss L report a theft to the police. So I can understand why First Central didn't treat the incident as a theft or as unauthorised use.*

*Miss L has said, due to the nature of her relationship with Mr Y, she didn't explain earlier that the car was used without permission. When she did, in her complaint, explain this, First Central invited her to contact one of its teams to discuss the matter. As far as I'm aware she didn't take up that reasonable offer. Miss L has recently discussed, with this Service, the possibility of lodging a theft report with the police. She said she had been informed by the police that it was too late to do so. She was asked to provide evidence of this, but hasn't so far.*

*As the incident hasn't been considered as a theft, or an issue of unauthorised use, First Central chose to seek recovery from Miss L rather than Mr Y. I've considered Miss L's accounts of her relationship with Mr Y, and her explanation of events on the day of the incident in regard to the issue of consent. I've also reviewed First Central's reasons for not seeking recovery from Mr Y, essentially it considers it would be a difficult task not least as it would require Miss L to act as a witness. I note the difficulties for her, but as Miss L didn't report the car as taken without permission at the outset, and hasn't reported a theft, I don't intend to find First Central has unreasonably decided to recover its cost from her.*

### claim costs

*Miss L has questioned the cost of the claim, close to £10,000. She said she was informed it was only a scratch to the TP vehicle. I've only seen a basic breakdown of the hire and repair costs. This shows First Central didn't agree to the AMC's initial request for hire costs. It offered a lower amount that was accepted by the AMC. So I'm satisfied it took steps to minimise the claim costs. In addition I haven't been provided with any credible evidence that gives me reason to doubt the agreed costs. As far as I'm aware Miss L didn't see the damage herself, relying on the account of Mr Y for her opinion of the damage. I don't consider that enough to reasonably question the agreed claim costs or First Central's decision to accept them. So I don't intend to require it to provide any further justification or evidence of its verification process.*

### **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.

Miss L accepted the outcome proposed in my provisional decision. First Central didn't provide a response. As I haven't been provided with any reason to depart from the outcome I proposed in the provisional decision, I don't uphold Miss L's complaint.

### **My final decision**

For the reasons given above, I don't uphold Miss L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 16 April 2025.

Daniel Martin  
**Ombudsman**