

## **The complaint**

Mrs L has complained about the manner in which One Insurance Limited dealt with her claim under her motor policy following an accident which caused damage to her car.

## **What happened**

Mrs L was involved in an accident with a motorbike in September 2021. She was of the view this accident was not her fault but instead the fault of the motorbike rider. She said she explained this to One Call at the time and provided witnesses to the accident who agreed it wasn't her fault.

Further once her car was repaired, she had to pay for an independent engineer to confirm the knocking in her car was from the accident.

Initially One Call was of the view that liability for the accident would be 50% Mrs L's fault and 50% the fault of the motorbike rider. It went so far as to issue a part payment to the motorbike rider on 27 September 2021. Once it was aware the motorbike rider wanted to claim for personal injury it then contacted Mrs L in October 2021. Mrs L explained it wasn't her fault and produced a witness who agreed. So, One Call then decided not to entertain the motorbike rider's personal injury claim.

One Call told Mrs L in November 2021 that it still thought it would be a 50/50 split on liability so she would still need to pay her excess. By December 2022 it appeared that One Call believed Mrs L wasn't at fault.

It also appears One Call then instructed solicitors in August 2023. However, those solicitors closed their file in February 2024 given One Call never ensured its part payment back in September 2021 wasn't made on a without prejudice basis so the solicitor said the matter couldn't be resolved in Mrs L's favour.

Exasperated Mrs L complained, and One Call issued its final response letter in April 2024. It maintained it was disputing liability with the insurers of the motorbike rider. However, it acknowledged it had delayed so it paid Mrs L £300 compensation.

Mrs L remained dissatisfied, so she brought her complaint to us. The investigator ultimately upheld it. He thought given the delay by One Call and the fact its initial part payment made to the motorbike rider's insurers wasn't made on a without prejudice basis, that One Call should now record the claim against Mrs L, as No Claims Bonus (NCB) allowed, and refund her excess with interest. It should also recalculate Mrs L's premium amounts since, on this basis and refund her the difference with interest. And he felt the compensation should be increased to £500. Finally, he said One Call should refund the costs of the independent engineer fees that Mrs L had to instruct, with interest.

Mrs L agreed but One Call didn't and wanted an ombudsman to decide. On that basis Mrs L's complaint 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'm upholding this complaint along the same lines as the investigator. I'll now explain why.

Mrs L's testimony is that from the very beginning she explained to One Call that not only was the accident not her fault, but that the available witness evidence agreed it wasn't her fault. But it appears One Call ignored this and most importantly didn't contact the witnesses to ascertain the situation before doing anything else. It blustered on paying the motorbike rider's claim in part and further not ensuring this part payment was made on a without prejudice basis which then ensured there was no back tracking on liability possible, when it transpired both Mrs L and the witnesses believed Mrs L was not at fault for causing the accident.

I don't consider this was adequately protecting One Call's policyholder Mrs L, who was adamant all along that she wasn't at fault for causing this accident. It would have been better to obtain her testimony and any available witness testimony and then come to a considered opinion on liability before deciding to pay anything to the motorbike rider's insurers. As it has made this payment and appears not to have made it on a without prejudice basis, I consider the likelihood of the motorbike rider's insurers accepting any liability now is likely to be very remote given what it appears its solicitors have now told One Call. I don't consider that was at all fair and reasonable to Mrs L with the consequences that she must pay higher premiums solely due to One Call's unreasonable haste in making decisions on liability without ascertaining the evidence of both Mrs L and the witnesses to the accident.

Therefore, simply keeping the claim open in the way One Call has to date, over all these years, remains exceptionally detrimental to Mrs L and in my view is not a reasonable way for One Call to continue dealing. It's got little to do with anything Mrs L has done that finds One Call in this situation where the motorbike rider's insurers are refusing to renegotiate the matter. Mrs L's evidence and that of the witnesses has been available to One Call from the outset. It's not new evidence as One Call is saying presently, instead according to Mrs L, it's always been available to One Call.

Therefore, I consider it's more reasonable and fairer here if One Call now amends all the internal and external databases to show that Mrs L's NCB is allowed so that the claim is marked as non-fault. This will consequently mean that One Call should refund the excess it charged Mrs L with interest. Mrs L has remained insured with One Call, so it now should recalculate the premiums that it charged Mrs L since the accident refunding the extra amount it charged her because of this claim. It should add interest from the date Mrs L paid this increased premium to the date it refunds her.

Once the databases have been changed, Mrs L can then ask any other insurers to recalculate any increase in premium charged to her in this way as I understand Mrs L is insured on other vehicles also. This essentially puts Mrs L back in the situation she ought to have been in for all of these years, had One Call properly considered the liability for this accident with reference to both Mrs L's testimony and the witnesses.

Mrs L mentioned that she had to obtain an independent engineer's report at her cost to persuade One Call that the remaining knocking noise in her car was from the accident. So, I don't consider what One Call said about this in its final response letter was reasonable as its stance still put Mrs L to some further trouble. Therefore, I agree with the investigator and it's

reasonable that One Call should now reimburse Mrs L her costs of this upon proof of payment adding interest.

Mrs L has explained how much trouble and upset having this matter drag on since 2021 has caused her. It has been excessively and unreasonably drawn out well outside any reasonable period of time too. One Call did pay her £300 compensation with its final response letter in April 2024, but it didn't then ensure the matter was fully clarified for Mrs L at that time, so it's dragged on even further. Therefore, I agree with the investigator that further compensation is warranted. I concur that adding a further £200 is reasonable which makes the total compensation payable to be £500. Considering the length of time Mrs L has been put to this trouble and upset, I consider this amount is fair and in line with our stance on such compensation matters, which is more fully detailed on our website.

### **My final decision**

So, for these reasons, it's my final decision that I uphold this complaint.

I now require One Call Insurance Limited to do the following:

- Amend all internal and external data bases to show Mrs L's NCB has been allowed ensuring the claim is now marked non-fault.
- Refund the excess Mrs L paid adding interest of 8% simple per year from the date Mrs L paid it to the date it refunds her.
- Recalculate the premium it has charged Mrs L since the date of the accident and as a result of the accident and refund any over payment adding interest of 8% simple per year from the date Mrs L paid such increases to the date it refunds her.
- On proof of payment, refund the engineer's costs for providing a report for Mrs L concerning the knocking noise in her car. Adding interest of 8% simple per year from the date Mrs L paid these fees to the date it refunds her.
- If income tax is to be deducted from the interest, appropriate documentation should be provided to Mrs L for HMRC purposes.
- Ensure Mrs L is paid a further £200 compensation making the total compensation payable to be £500.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 17 March 2025.

Rona Doyle  
**Ombudsman**