

The complaint

Miss W complains about what EUI Limited did after she contacted it about a motor accident.

What happened

Miss W has motor insurance which EUI arranged. On 28 December 2019 Miss W was involved in a car accident. She says she contacted EUI to notify it of the incident but didn't want to progress a claim as the third-party insurer had already accepted its driver was at fault. EUI says during the call Miss W agreed to have her claim dealt with by an accident management company and for her uninsured losses to be pursued under the legal expenses section of her motor legal policy (provided by a different insurer).

That claim was progressed by panel solicitors. Miss W subsequently complained about how her legal expenses insurer had dealt with it. A separate complaint about that has been considered by our service. Another Ombudsman issued a decision on it last year and didn't uphold it. Miss W complained to EUI that it had passed the case on to her legal expenses insurer without her knowledge or agreement. She thought she'd have received a better outcome if she hadn't pursued that claim because the third-party insurer had accepted its driver was at fault.

EUI initially said the call Miss W had with it in December 2019 wasn't available (although the call notes indicated Miss W had agreed to her claim being considered under her legal expenses policy). However, as part of our investigation it did then find the call which it provided to us.

In her most recent view (and having listened to that call) our investigator said it was reasonable of EUI to conclude the call was from Miss W. And she thought EUI had clearly explained her options and Miss W had agreed to her claim being passed to panel solicitors acting under her legal expenses insurance. She didn't think it had initiated a claim Miss W didn't want to make. But she thought EUI should have found the call earlier and not doing so had caused Miss W some avoidable distress and inconvenience. She said it should pay Miss W £100 to recognise that.

EUI didn't agree. It accepted it had incorrectly told Miss W the call wasn't available but as that didn't form part of her complaint it was something that should be raised separately. Miss W didn't agree either. She reiterated the third-party insurer had admitted liability and she'd accepted its offer prior to her conversation with EUI. She said it was that insurer who instructed the accident management company and a full recovery had been made from it. She'd told EUI that in the call and said she didn't want to claim on her policy. She said she was only calling to report the incident and the call must have been edited to remove that information. She said we should obtain the call she'd had with the third-party insurer about this. So I need to reach a final decision.

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 clear this has been a long running and challenging issue for Miss W to deal with. Her strength of feeling about what's happened is clear from the correspondence I've seen. I was sorry to learn about the impact of these issues on her. However, as our investigator explained her concerns about the handling of her legal expense claim have been separately considered by our service and another Ombudsman has issued a final decision on that. That isn't something I'm considering here.

What I'm considering is what EUI did when Miss W contacted it at the end of December 2019 following the motor accident she'd been involved in. I've listened to the recording of the call EUI has now been able to locate. I appreciate Miss W says she was only contacting EUI to notify it of the incident and the third-party insurer had already admitted liability. But that isn't something she references during the call. And on the key point for this complaint (which is the referral to her legal expenses insurer) the adviser explained they could contact the panel solicitors (who act on behalf of that insurer) to see if they could assist with any out of pocket expenses or personal injury claims. Miss W agreed to that.

At no point in the call did Miss W say the third-party insurer had accepted liability for the claim or make any reference to contact with them. And the referral to the accident management company was made at the end of this call; I think if that had already been done by the third-party insurer Miss W would have referenced that and she didn't.

I've also taken into account that Miss W previously gave reasons for why she couldn't have spoken to EUI on 28 December. However, I'm satisfied she did so. And while Miss W has told us she had a call with the third-party insurer on 28 December (prior to speaking to EUI) I don't think the other evidence supports that. I can see the third-party insurer told her it didn't open a file on this claim until 30 December 2019. And it then sent Miss W a text message the following day confirming it insured the other driver and asking her to contact it. I think it's unlikely it would have done that if it had already spoken to Miss W and agreed to progress her claim.

Of course it's entirely understandable Miss W's memory of what happened in a call that took place six years ago may have faded. But given the inconsistencies in what she's said, and the other evidence, I'm not satisfied I can rely on her recollections as an accurate reflection of what took place. And ultimately key to the outcome of this complaint is what happened when Miss W did speak to EUI. I think the best evidence available in relation to that is the call recording EUI has now provided. And I've seen no evidence that makes me think that call has been edited or doesn't accurately reflect what was said at the time.

It's clear from that call Miss W agreed a claim could be referred to the insurer of her motor legal expenses policy. So I don't think EUI did anything wrong in doing so. If Miss W subsequently decided that wasn't a claim she wanted to progress that's a discussion she could have had with her legal expenses insurer (or the panel solicitors who were handling her claim). It isn't something EUI is responsible for.

However, I do agree EUI should have been able to locate the call with Miss W after she raised her concerns about what was said with it. And I don't see that's something that needs to be considered as part of a separate complaint. Clearly what was said in that call is fundamental to the issues Miss W was raising. And if EUI had fully checked its records following Miss W's contact with it I think it likely it would have found the call significantly earlier than it did. I agree not doing so caused Miss W some avoidable distress and inconvenience and I think a payment of £100 (inclusive of a £25 goodwill payment it already agreed to make) is reasonable in the circumstances of this case.

My final decision

I've decided to uphold this complaint. EUI Limited will need to pay Miss W a total of £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 14 May 2025.

James Park
Ombudsman