

The complaint

Miss W has complained about the way her motor insurer, Admiral Insurance (Gibraltar) Limited ('Admiral'), dealt with a claim that was made on her policy by a third party.

What happened

I issued a provisional decision regarding this complaint last month where I said I was considering upholding it and asking Admiral to investigate the third-party claim and provide Miss W with a meaningful update as well as the steps it is taking to bring the matter to a conclusion. I also thought it should pay her £600 compensation in total for the distress and inconvenience it caused her. An extract from that decision follows:

"Miss W was involved in an incident in June 2024 where she says that a third party collided with the rear of her car while she was stopped. Miss W said she was attending an event where the route provided by the organisers was a "disaster" and kept leading to dead ends. When the incident happened, she stopped her car on a hill because it had started to slide down. She said the third party came round a corner and collided with her.

The third party made a claim against Miss W's policy which Admiral settled on a without prejudice basis. Admiral said that if liability is decided in Miss W's favour it will be able to recover its outlay from the third-party insurer.

Miss W was unhappy with the way Admiral handled the claim and complained. She said she was told by Admiral that this was a 50-50 case when in fact she felt the third-party claim was fraudulent. She also said that Admiral's communication with her was poor, she received no updates and was promised several call-backs that she never received. She was also unhappy with Admiral's investigation and said it never attempted to contact her two witnesses who were in her car at the time. She also said she wanted to bring a claim against the organisers of the event she was attending whose lack of organisation made this type of incident very likely. Miss W also asked Admiral to share details about the third-party damage claim.

Admiral issued two responses to Miss W's complaint. It accepted that its communication and service was poor and that she didn't receive call backs when promised and awarded her £120 compensation for the distress and inconvenience it caused her. But it didn't uphold Miss W's complaint about the third party claim being fraudulent.

In the second response it accepted that its service was again poor and that it failed to speak to Miss W's witnesses or pursue the organisers of the event. It offered Miss W £50 compensation for this but it said it wasn't able to change the outcome of the claim. It said in terms of its liability decision this was due to the fact that it didn't feel Miss W would succeed in court and, as it had no concerns regarding the third party, it felt liability should be split. It

said it wasn't able to share information regarding the third party damage claim as it contained sensitive data.

Miss W brought her complaint to our organisation and said she wanted Admiral to remove the claim and the sums it paid out from her record. She didn't accept its £50 and £120 compensation payments. She said she wanted a copy of the estimate and the engineer's report regarding the damage the third party claimed for, which Admiral refused to provide.

During our investigations Admiral confirmed that liability had not been formally admitted but the third party's claim was paid on a without prejudice basis in order to prevent them from commencing court proceedings. It said its decision regarding the potential apportionment of liability was based on the third party's report of the incident which said that Miss W's car rolled back, moved forward and rolled back again into the third party's car. It added that it hadn't interviewed Miss W's witnesses as they were members of her family and wouldn't be considered to be independent.

One of our investigators reviewed the complaint and didn't think Admiral needed to do anything more.

Miss W didn't agree and asked for an ombudsman's decision. She said there was still no explanation why the organisers had not been pursued. She added that she was entitled to know what Admiral paid the third party around £7,000 for, bearing in mind the damage to the third party car was minimal. She also didn't agree that data protection laws prevented Admiral from sharing details of the third-party damage.

Before I proceeded with my decision I asked our investigator to request some further details about the handling of the claim from Admiral. Among other things, I asked if the payment it made to the third party represented 50% of its damage claim and what it was doing to finalise liability. I also noted that the third party had not provided engineering evidence in support of their claim and thought it would have been fair and reasonable to request such evidence and compare it with Miss W's damage to ensure it was consistent. I also asked for more information as to how it arrived at its 50-50 liability assessment and said I wasn't sure why it hadn't provided Miss W with more details of the third-party damage claim and costs.

I also asked Miss W if she had complained to the Information Commissioner's Office (ICO) or made a pre-action disclosure application as she said she would.

Miss W said that she spoke to the ICO who told her the information that she is seeking should be disclosed to her. She said she also contacted an engineering expert who said they needed to see the third-party engineer's report to compare and assess its damage. She said the engineer told her the area of damage did cause them concern in terms of its location. Miss W said she has not made a pre-action disclosure application as she didn't want to incur costs before our investigation was completed.

Admiral said that the payment it made to the third party on a without prejudice basis was for the full cost of their claim and not 50%. In response to my question as to what it was doing to finalise liability it said that it should have had a liability task on file. It added that it has an agreement with the hire provider/repairer that it pays its outlay in full if it is 1% liable. It said it

would not need sight of repair or other invoices to settle the third-party damage claim. Finally, it said its liability decision was based on the accident circumstances.

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.

The policy

Like most motor insurance policies, Miss W's policy provides cover for causing damage to another person's property. It also covers the damage sustained by the insured. If liability is split or successfully denied, Admiral will seek to recover its outlay or part of it from the at-fault party. Miss W said her car sustained no damage and as far as I am aware she hasn't made any other claims. So, I don't think it's unreasonable that Admiral hasn't pursued a claim on her behalf, as she has no insured losses to claim for.

The motor policy also includes motor legal protection (MLP) as an add-on which can be used in the event the insured is involved in an accident that they are not to blame for. It isn't clear whether Miss W's cover includes MLP or not as this depends on the type of policy she has with Admiral. This is something she can check with Admiral. Miss W said she wants to bring an occupier's liability claim against the organisers of the event she was attending. Miss W will have to check whether she has MLP and if so whether it would cover such a claim under its terms and conditions which are separate to the motor insurance policy.

Admiral's investigation

Miss W raised concerns regarding the third-party claim and said she believed it was fraudulent. Whenever such concerns are raised we would expect the insurer to investigate them and this would include comparing the damage to both cars to ensure it is consistent, interviewing witnesses etc. From what I have seen, Admiral's investigations have been minimal. It has accepted that it didn't interview any witnesses and that it didn't obtain an engineer's report or a statement from the third party. It relied on a short report of the incident provided by the third-party insurer which said that Miss W's car reversed into their insured's car. Based on this, I don't think Admiral acted fairly and reasonably in carrying out its investigation.

Admiral said it didn't interview Miss W's witnesses as they were not independent but in the absence of other witness evidence, I think it would have been reasonable to speak to them first and then assess the quality of their evidence.

Admiral said it has an agreement whereby it pays a claim in full if it is 1% responsible and that this means it doesn't need to see repair estimates or reports. It's not unusual for insurers to have commercial agreements such as this one but I think in these specific circumstances Admiral could have requested to see further details of the third-party damage to compare to Miss W's. I don't think it is unreasonable that it made a without prejudice payment in an attempt to minimise costs but I don't think this prevented it from carrying out further investigations.

Admiral has told Miss W that if liability is decided in her favour, it will make a recovery of its

outlay. But from the information I have been provided with, I can't see that Admiral is actively trying to ensure that liability is being finalised. If that isn't the case, Admiral can let me know when it responds to this decision. Admiral has also not clarified whether the claim is open or closed. If no steps are being actively taken to progress the matter, this will remain an open claim on Miss W's record without a resolution which I don't think is fair and reasonable.

Admiral should now proceed to investigate the matter fully. It may do so by interviewing witnesses and obtaining evidence in support of the third party's claim as well as liaising with the other side in relation to liability.

Sharing evidence with Miss W

Admiral said it wasn't able to share sensitive data regarding the third-party claim with Miss W. Admiral doesn't seem to have been provided with an engineer's report or repair estimate from the third party, so it isn't able to share any of these documents with Miss W in any event. But if it had those documents, I think it would have been fair and reasonable for Admiral to share them after redacting sensitive information which is something I am aware of other insurers doing in the past. But even if that wasn't possible, it could have given Miss W some further details of the third-party claim for example a breakdown of the costs it paid or details of the damage the third party claimed for.

Distress and inconvenience

Admiral accepts that its communication and service have been poor but for the reasons above, I think this goes beyond not providing Miss W with call backs or updates. I think Admiral has failed to fully investigate this claim- it didn't obtain a third-party engineers report, speak to the witnesses and after paying the third party claim (on a without prejudice basis) it seems to have taken no steps to finalise liability so that the claim can be concluded. It may well be that even if Admiral had carried out the steps above it would have still arrived at the same outcome, but I think it's unwillingness to investigate Miss W's concerns and ultimately carry out what we would consider to be a standard investigation, will have caused her a considerable amount of distress and inconvenience. And for this I think it needs to pay Miss W £600 compensation in total."

Both parties responded to my provisional decision. Admiral said that it had already paid the £170 it had previously offered Miss W and asked if this was included in the £600 I awarded. Otherwise, it had nothing further to add to my provisional decision.

Miss W also responded accepting my provisional decision. She reiterated that she wanted the claim to be removed from her insurance file and said she may still issue proceedings as the claim would remain on her record for five years unless it was removed. She said she had little faith in Admiral investigating the matter and asked for her response to be forwarded to Admiral. Miss W also mentioned that when she tried to take out a new insurance policy, she was told that the £7,000 payment was recorded as a 50% settlement rather than 100% so she believes Admiral has recorded it incorrectly.

Our investigator responded to Admiral to confirm that the £600 compensation was the total compensation award. Our investigator also provided Admiral with Miss W's comments as she had requested.

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 W has reiterated that she would like the claim to be removed from her record. And she also believes that Admiral has recorded the claim incorrectly as the record seems to show that it paid £7,000 for 50% of the third-party claim when it told us that the £7,000 represented 100% of the third-party claim.

As I said in my provisional decision, I don't think Admiral has adequately investigated the matter which is why I thought it should investigate it now. Once it completes its investigation it should be able to confirm whether it is seeking to make a recovery from the third party, what it considers its liability stance to be etc. And it should be able to update its record accordingly. And I expect it will be liaising with Miss W in the meantime so she will be aware of what its investigations involve and what its conclusions are and whether it will be updating its records.

Miss W said she doesn't have faith in Admiral investigating the matter. If she isn't happy with Admiral's investigations once those have been concluded she is free to raise a new complaint.

In terms of Admiral's query, the £600 compensation I awarded was in total. Admiral said it has already paid the £170 so it would have to pay the balance. But if Miss W never received the £170, Admiral will have to raise this payment again.

The rest of my findings remain the same as the findings I made in my provisional decision and now form the findings of this, my final decision.

My final decision

For the reasons above, I have decided to uphold this complaint. Admiral Insurance (Gibraltar) Limited must now proceed to investigate the third-party claim which was made on Miss W's policy and provide her with a meaningful update as well as the steps it is taking to bring the matter to a conclusion.

Admiral Insurance (Gibraltar) Limited must also pay Miss W £600 compensation in total for the distress and inconvenience it caused her. It must pay the compensation within 28 days of the date on which we tell it Miss W accepts my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

If Admiral Insurance (Gibraltar) Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss W how much it's taken off. It should also give Miss W a tax deduction certificate if she asks for one so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 2 May 2025.

Anastasia Serdari
Ombudsman