

The complaint

Ms D has complained about the way Admiral Insurance (Gibraltar) Limited has handled a claim under her motor insurance policy.

What happened

Ms D was in an accident and made a claim for damage to her vehicle, which Admiral settled. She wanted Admiral to hold the driver of the van which hit her vehicle responsible for the accident and pursue recovery of its outlay from them. Admiral refused to do this and marked Ms D's claim as fault (bonus-disallowed). Although, it did agree to reinstate her no claim discount as a goodwill gesture.

Ms D asked us to consider her complaint about Admiral's approach. One of our investigator's did this. She said Admiral should obtain a legal opinion from a solicitor on whether the driver of the van could be held responsible for the damage to Ms D's vehicle and on Admiral's prospects of recovery of its outlay in light of this.

Admiral has refused to do what the investigator suggested, so the case has been passed to me for a final decision. Admiral has said its claim handlers are experienced in deciding liability for an accident and it has never been asked by us to get a solicitor's opinion before.

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've decided to uphold it and require Admiral to do what the investigator has suggested.

I've looked at the video footage of the accident that led to Ms D's claim. And I think it might be possible to hold the driver of the van that hit the insured vehicle responsible for the accident. But, bearing in mind the road layout and the actions of the lorry next to the van, it is not clear cut. It is an unusual situation, and careful consideration needs to be given to any relevant case law, along with the van driver's responsibility under the Highway Code. This will then enable Admiral to properly understand the prospect of it making a successful recovery from the van driver or their insurer. And this is why I think it is fair and reasonable for me to require Admiral to get a full legal opinion from a solicitor. I do of course appreciate that Admiral's claim handlers are experienced, but Admiral has not provided any case law concerning similar incidents to support their opinion on liability. And I think on this occasion it is right for Admiral to obtain the opinion of a legal expert. The fact that – as far as the case handler is aware – we have not asked Admiral to do this before, does not alter my view that it is the fair and reasonable outcome to Ms D's particular complaint.

Putting things right

For the reasons set out above, I've decided to uphold Ms D's complaint and require Admiral to appoint a suitably qualified solicitor to review all the evidence surrounding Ms D's accident

and claim, including the video footage. And it must ask the solicitor to then provide a written opinion on whether it is likely to be possible for Admiral to hold the driver of the van that hit Ms D's vehicle liable and recover its outlay from them. If the solicitor's opinion says it is, then Admiral should then pursue recovery and mark Ms D's claim as non-fault if it is successful in recovering its outlay. If Admiral decides to take legal action to recover its outlay, I would expect it to consider including any uninsured losses Ms D has as part of this.

Admiral should also share a copy of the solicitor's opinion with Ms D.

My final decision

I uphold Ms D's complaint and order Admiral Insurance (Gibraltar) Limited to do what I've set out above in the 'Putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 24 June 2025.

Robert Short
Ombudsman