

The complaint

Mr E complains Admiral Insurance (Gibraltar) Limited (Admiral) declined the claim he made under his motor insurance policy and also about the way it has settled the third-party's claim.

What happened

The circumstances of this complaint will be well known to both parties and so I've summarised events. In April 2022 Mr E was involved in an accident involving another vehicle and so a claim was reported to Admiral under his motor insurance policy. Admiral said Mr E would be at fault for the accident and so it would be dealing with any claim from the third-party.

In December 2022 Admiral told Mr E it wouldn't be dealing with the claim for the damage to his car as it said Mr E was above the legal limit for alcohol at the time of the accident. It said its claim department may contact him regarding reimbursement of any costs it incurred as a result of a third-party claim. It also wrote to Mr E attaching a Consent and Indemnity form for him to sign and explaining what may happen if he chose not to sign it.

In February 2023 Admiral sent Mr E a Consent and Indemnity form again. Following a number of conversations with Admiral, Mr E signed the Consent and Indemnity form and returned this to Admiral at the end of March 2023.

Admiral instructed a solicitor, who I'll call S1. In May 2023 S1 provided advice to Admiral, recommending it make offers to settle the third-party's claim. In June 2023 S1 carried out a review of the third-party's medical records, and recommended Admiral make the offers it had previously suggested.

At the end of September 2023 Mr E wrote to S1, giving instruction to settle the matter based on the advice from S1. S1 confirmed with Admiral it would proceed to make the recommended offers to the third-party's solicitor to look to settle the claim. The third-party accepted an offer of £45,000 for compensation, and S1 agreed third-party claim costs of £46,500 with the third-party.

In March 2024 Admiral wrote to Mr E to say it had a total outlay of around £110,000 and told him to get in touch with it with settlement proposals. Following receipt of this letter Mr E raised a complaint with Admiral covering a number of issues including:

- Admiral's decision to decline his claim.
- Failure to provide him with information he had requested including his policy documents.
- The way Admiral investigated the third-party claim, including the review of medical records and the settlement it paid.
- The signing of the Consent and Indemnity form.

On 21 June 2024 Admiral issued Mr E with a final response to his complaint. The final response outlined 22 separate complaint points which I don't intend to list here. Admiral said some of the complaint points Mr E had raised would be passed to S1 to respond to separately. It said it acknowledged there had been some errors in the way it had handled Mr E's claim and so paid him £175 compensation. It didn't change its decision to decline Mr E's claim, and didn't think it had unfairly dealt with the settlement of the third-party's claim. Mr E didn't think this was reasonable and so referred his complaint to this Service.

Our investigator looked into things. She said she thought Admiral had fairly declined Mr E's claim under the terms of the policy and it was fair for it to attempt to recover its outlay from him. She said she thought Admiral had fairly relied on expert legal opinions and didn't think it had dismissed Mr E's concerns about the settlement. She thought it had settled the third-party's claim fairly. She also said she thought the compensation Admiral had paid for the errors it had already acknowledged was reasonable in the circumstances.

Mr E didn't agree with our investigator. He provided a detailed response but in summary he said:

- The evidence provided by the third-party in support of their claim was exaggerated, untrue and inconsistent with the medical records available. He provided commentary on the schedule of losses and third-party medical records to support his position on this.
- Had this been investigated appropriately the third-party claim would have been identified as fraudulent and ultimately dismissed.

As Mr E didn't agree with our investigator the 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.

I want to acknowledge I've summarised Mr E's complaint in much less detail than he's presented it. I've not commented on every point he has raised. Instead, I've focussed on what I consider to be the key points I need to think about. I mean no discourtesy by this, but it simply reflects the informal nature of this Service. I assure Mr E and Admiral I've read and considered everything that's been provided. I've addressed the key points separately.

Decision to decline Mr E's claim

Admiral have declined Mr E's claim as it said at the time of the accident Mr E was above the legal limit for alcohol. It has said Mr E was breathalysed at the scene of the accident and this returned a reading of 60 which is over the legal limit of 35.

It has relied on an exclusion in Mr E's policy which states:

'11. Drink and drugs clause

If an accident happens while any insured person is driving and:

- *is found to be above the legal limit for alcohol or drugs*
- *is driving while unfit through drinks or drugs, whether prescribed or otherwise*

- *fails to provide a sample of breath, blood or urine when required to do so, without lawful reason.*

No cover under the policy will be given and instead, liability will be restricted to meeting the obligations as required by Road Traffic Law and we will cancel your policy.'

Mr E has said he had a blood test at the hospital following the accident and this was under the drink drive limit and so it wasn't reasonable for Admiral to repudiate his claim. So, I've considered whether Admiral have acted reasonably when it declined Mr E's claim.

I should explain it isn't necessary for Admiral to prove beyond all doubt that Mr E was above the legal limit for alcohol. Instead, it needs to show that this was more than likely to be the case.

I can see from the police report, Mr E was breathalysed at the scene of the accident and this returned a reading of 60, which is over the legal limit of 35. Admiral have said this reading was taken around 30 minutes after the accident and so was likely to be higher at the time of the accident. It has also said the police report confirms Mr E smelt of alcohol, the passenger of his vehicle confirmed they had been drinking that day, and the circumstances of the accident are consistent with someone who had been consuming alcohol.

The blood tests taken at the hospital provided a result of not less than 79 milligrams per 100 millilitres of blood, and the legal limit is 80 milligrams per 100 millilitres of blood. Whilst under the legal limit, I don't think this means Admiral were unreasonable to rely on the exclusion it has done to decline Mr E's claim. The blood test would have been taken some time after the accident, and given how close the result is to the legal limit, I think it's reasonable to assume it would have been higher at the time of the accident. And in any event, I think the other evidence Admiral have relied upon is sufficient for it to conclude Mr E was more likely than not over the legal limit for alcohol at the time of the accident. Therefore, I think it was reasonable for it to rely on this exclusion to decline his claim.

Although Admiral declined Mr E's claim, under the Road Traffic Act 1988, it would ultimately still be obligated to deal with the third party's claim costs. It's entitled to then seek recovery of these costs from Mr E directly, a right which is also set out in the terms of Mr E's policy. Additionally, Mr E signed a Consent and Indemnity form, agreeing to repay Admiral all sums paid. And, whilst Mr E believes Admiral placed undue pressure on him to sign this form, I've not seen persuasive evidence this is the case. I think it explained why it was sending Mr E the form, and it advised Mr E to seek his own independent advice.

So, based on the evidence provided, I'm satisfied it was reasonable for Admiral to seek a recovery of its costs from Mr E directly.

Settlement of the third-party claim

Mr E has acknowledged he was responsible for the accident in 2022. However, he has said Admiral failed to appropriately investigate the third-party claim before agreeing to settle it. He said the evidence the third-party provided in support of her claim was exaggerated and inconsistent, and so should have been challenged by Admiral. He has said had this happened, the settlement would have been lower, or even dismissed. So, I've considered whether Admiral carried out appropriate investigation before settling the third-party's claim.

I can see in May 2023, on the instruction of Admiral, S1 provided its initial advice and recommendations based on the information provided to it. S1 recommended Admiral offer a settlement of the third-party claim. No offers were made at this stage so a review of the third-

party's medical records could be carried out. At the end of June 2023 S1 sent Admiral its review of the medical records and recommended settlement offers were made to the third-party.

I think it was reasonable for Admiral to rely on the advice provided by S1 when looking to settle the third-party's claim. S1 have the relevant expertise in the field and had carried out an assessment of the claim, and review of the third-party's medical records. Admiral have said an offer was made to settle the claim in order to stop the claim from progressing to court as this would have increased the costs further.

I acknowledge Mr E raised concerns about the third-party's claim, however I don't think these concerns mean it was unreasonable for Admiral to make the offers it did to settle the third-party claim. I think it fairly took into consideration the evidence available to it at that time, including the expert opinion from S1, and its offer to settle the third-party claim was a reasonable one. And in any event, I've not seen persuasive evidence Admiral challenging the third-party's claim would have resulted in a lower outlay being due, or the claim being dismissed, particularly given its likely legal costs would have continued to rise.

Mr E has said he was unhappy he wasn't included in negotiation of the third party's claim costs and hasn't received a detailed breakdown of these costs. Mr E signed a Consent and Indemnity form which gave Admiral the right to negotiate a settlement, and so I don't think it was necessary for it to include Mr E in these negotiations or require his approval of these costs. And based on the evidence provided, I'm satisfied Admiral has looked to negotiate these costs fairly. Admiral have said Mr E wasn't entitled to a full breakdown of the claim costs under GDPR and the data protection rules, but Mr E could submit a Subject Access Request to obtain information held about himself. Whilst I acknowledge Mr E is ultimately required to pay these costs, I don't think the reason Admiral have given for why it can't share the information Mr E has requested is an unreasonable one.

Claim handling

Admiral have acknowledged it made errors in the way it handled Mr E's claim and has paid £175 compensation for the distress and inconvenience caused. So, I've considered whether this is reasonable to acknowledge the impact to Mr E.

Given the circumstances of Mr E's claim, I think he would have always suffered some distress and inconvenience even had everything gone smoothly. However, I think Mr E has suffered some additional distress and unnecessary inconvenience due to the errors Admiral have made.

I think most of the errors Admiral have taken responsibility for, such as the delay in providing Mr E a copy of his policy documents and incorrectly referring to the Consent and Indemnity form as an Assignment and Agreement form, have caused him some minor distress and unnecessary inconvenience. I also think the way Admiral handled Mr E's calls in March 2023 has caused him some distress. However, I can see Admiral's claim handler spoke to Mr E on 28 March 2023 in some detail and provided an update on his claim.

Taking all of this into consideration I think the total compensation Admiral have paid of £175 is reasonable to acknowledge the additional distress and inconvenience it has caused Mr E due to the way it handled his claim. I think compensation of this amount is fair when a business has made a number of smaller errors resulting in a reasonable level of distress, which I think is the case here.

I know this will be disappointing for Mr E, but for the reasons I've explained I don't require Admiral pay any additional compensation.

My final decision

For the reasons I've outlined above, I don't uphold Mr E's complaint about Admiral Insurance (Gibraltar) Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 15 August 2025.

Andrew Clarke
Ombudsman