

The complaint

Mr M complains that Admiral Insurance (Gibraltar) Limited (Admiral) declined his claim following a road traffic accident he was involved in, under his motor insurance policy.

What happened

Mr M was involved in a serious collision whilst driving his car in July 2022. The car was badly damaged and Mr M received medical attention in an ambulance and was taken to hospital.

Mr M says Admiral declined his claim following the accident as it says he'd been drinking alcohol and was likely to have been over the drink drive limit. But Mr M says the accident was a result of a medical issue, that he wasn't over the limit, that the police tested him but took no further action.

In its complaint response Admiral says that sometime after Mr M's accident, a blood test was taken which showed 80mg of alcohol per 100ml of his blood. It says the legal limit to drive is 80mg per 100ml of blood. They said this shows it's probable the level of alcohol in Mr M's blood was over the legal limit at the time of the accident. So, it declined to indemnify him for his loss.

Mr M didn't think this was fair. He says there is no evidence he was over the limit and Admiral shouldn't base its decision on probabilities. Because he disagreed with Admiral's decision he referred the matter to our service.

After two complaints came to our service regarding Admiral's handling of the claim, this complaint regarding the claim decision was brought. Our investigator upheld Mr M's complaint. She said it wasn't clear when the blood sample was taken that was used to identify his blood alcohol level. Because of this she didn't think Admiral could reasonably show Mr M was driving whilst over the legal alcohol limit.

Further there was reasonable doubt due to Mr M's subsequent medical diagnosis as to whether that was the cause of the accident. Our investigator didn't think Admiral could fairly rely on the policy exclusions it had, to decline his claim. She says Admiral should settle the claim based on the remaining policy terms. She also recommended a further £250 compensation, and a refund of recovery costs paid (upon proof of payment).

Admiral disagreed. It says on the balance of probabilities, Mr M's blood alcohol level exceeded the legally allowed level at the time of his accident. Our investigator didn't change their mind. So, Admiral asked for the matter to be considered by an ombudsman.

The complaint has now 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've decided to uphold Mr M's complaint. Let me explain why.

The policy terms Admiral relied on to decline Mr M's claim are copied below from the section entitled, 'General Conditions':

"11. Drink and drugs clause

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

- is found to be over the legal limit for alcohol or drugs*
- is driving while unfit through drink 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."

I don't think it's fair for Admiral to rely on this exclusion here. I say this because:

- Admiral say Mr M failed a roadside breath test but we do not have the result of this. Further, Mr M has disputed its reliability by consistently stating he'd had a roadside gel administered to him by the ambulance paramedics which can distort the recording. Admiral have acknowledged the gel could create a false positive.
- The blood test result we have been provided with as evidence, doesn't state that Mr M was over the alcohol limit at the time it was taken.
- No further action was taken by the police.
- We don't have any police report or details of how long after the accident, the blood test was completed. Admiral acknowledges it could be as short as less than an hour after the accident. It is therefore hard to surmise the probability that Mr M's alcohol reading will have fallen by that point.
- Mr M has stated the accident was due to a medical episode and has provided a retrospective diagnosis which might account for this.

Based on this, it can't reasonably be established that Mr M was over the drink drive limit at the time of the accident. None of the three policy exclusions highlighted by Admiral can therefore apply here.

Mr M has raised several complaints with Admiral, which have also included our involvement. To date he has received a total of £725 compensation (including £250 in regard to this complaint) for issues with the complaint handling, delays and for the distress and inconvenience caused. Our Investigator has recommended a further £250 to take account for the further time this has been going on for and the impact of this including Mr M having to keep the vehicle on his driveway. Mr M didn't agree this was enough, but I think it fairly recognises the impact this has had on him and Admiral should pay it.

Mr M also says he paid to have the vehicle recovered. I agree with the investigator it would be fair for Admiral to consider these costs and refund them upon proof of payment from Mr M.

In summary, I don't think Admiral has reasonably shown, on the balance of probabilities, that Mr M was driving whilst over the drink drive limit at the time of the accident. Therefore, Admiral can't rely on the policy exclusion that he was unfit to drive through drink. Because of this, I agree with our investigator that Admiral should now consider Mr M's claim based on its remaining policy terms. They should also compensate him a further £250 for the inconvenience caused by the amount of time this has been going on for and Mr M having to store the vehicle and having lost the use of his driveway.

My final decision

My final decision is that I uphold this complaint. Admiral Insurance Company Limited should:

- Reconsider Mr M's claim based on its remaining policy terms without relying on section 11 of its General Conditions.
- Consider the recovery costs and refund them following proof of payment.
- Pay Mr M a further £250 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 18 September 2025.

Yoni Smith
Ombudsman