

The complaint

Mr N complained that Marshmallow Insurance Limited (“Marshmallow”) failed to inform him about a claim against his motor insurance policy and unfairly settled in the third party’s (“TP”) favour.

What happened

In October 2024 Mr N said he was involved in a minor collision. He said that he drove into the back of a TP’s car. The TP had braked sharply at a roundabout which he said caused the collision. Mr N said there was no damage to either of the car’s involved. He contacted Marshmallow to inform it of the incident and to provide the photos he’d taken.

In July 2025 Mr N said he discovered a claim had been made against him. This was near the time of his renewal. But he said Marshmallow didn’t contact him at any point about the TP’s claim. Mr N didn’t think he was to blame for the incident. He said he can’t afford to insure his car anymore because of this claim and the impact it has had on his premium.

In its final complaint response Marshmallow told Mr N that the liability decision had been made based on the available evidence from the incident he reported in October 2024. It said he’d described the collision where he’d driven into the rear of the TP’s vehicle. Marshmallow explained that the TP had pursued repairs and credit hire. It said this had been settled in November 2024.

The business said there were shortcomings in how it kept Mr N informed during the claims process. It offered him £150 compensation for the uncertainty and frustration this caused him.

Mr N didn’t accept what Marshmallow said and referred the matter to our service. Marshmallow then contacted us to offer another £150 to Mr N making its total offer of compensation £300. We put this offer to Mr N but he declined it.

One of our investigator’s looked into the matter for him. She upheld the complaint in part. She thought it was fair to pay compensation for the communication failings, but that Marshmallow’s offer was reasonable. She thought the business had acted reasonably when agreeing to settle the claim in the way it had. Our investigator also thought it was fair that Marshmallow offered to reconsider if Mr N provided new persuasive evidence.

Mr N didn’t agree with our investigator’s view. He said that had he been made aware of the claim, he could have sought out CCTV footage from buildings close to the incident. As he wasn’t made aware of the claim he said he can no longer provide any new evidence.

As an agreement wasn’t reached 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.

Having done so I'm partially upholding Mr N's complaint in part. I realise this isn't the outcome he wanted and I'm sorry to disappoint him. But I'll explain why I think my decision is fair.

Mr N's policy says:

"We shall have discretion in the conduct of any proceedings or in the settlement of any claim."

This is a common clause found in motor insurance policies. It means that it is up to Marshmallow to determine how to deal with any claim. It doesn't need Mr N's permission to do this. That said Marshmallow can't just do anything it wants. It must still treat Mr N fairly. I've considered whether it did so here.

In his complaint summary Mr N confirmed that he drove into the back of the TP's car at a roundabout. I've read the records provided by Marshmallow when Mr N first made contact. This provides the same account of events.

I acknowledge what Mr N said about the TP braking sharply at the roundabout. He said the TP had realised late that a car was on the roundabout driving at high speed. And that this had caused him to collide with the TP's car. But he doesn't dispute that a collision occurred when he drove into the rear of the TP's car.

Marshmallow provided the engineer's report that shows damage, albeit fairly minor, was caused to the rear bumper of the TP's car. It also provided the costings for the repairs to the bumper. Mr N said he saw no damage when he inspected both cars at the scene.

I've looked at the photos Mr N provided. It is difficult to see the damage on these images. But the engineer's photos taken at closer quarters, with less light reflection, do show some damage to the TP's rear bumper.

It's in Marshmallow's interest not to accept liability and therefore have to pay out on a claim. But it must also consider whether it is likely to be successful if the claim should proceed to court. The business has experience of claims that are likely to succeed and those that aren't. In this case it decided it didn't have sufficient evidence to successfully argue that Mr N wasn't to blame. In these circumstances I don't think this was unreasonable. Pursuing the liability outcome would incur additional cost without the likelihood of a successful outcome.

From the records I've seen there were no independent witnesses, no dashcam or CCTV footage, and Mr N admitted that he drove into the back of the TP's car. The Highway Code says that drivers should leave enough space so that if a vehicle suddenly slows down or stops, it is still possible to pull up safely. The indication from Mr N's testimony is that he didn't leave enough space. From what I've read there is no evidence, other than his testimony, to show that the TP was to blame for the collision.

I acknowledge Mr N wasn't made aware of the claim and his comments that this prejudiced his position to seek out CCTV footage. But he hasn't provided evidence to show that there were camera's in the vicinity of the collision. Or shown that the incident was captured. I think it's reasonable that the business confirmed it would reassess if Mr N provided new and persuasive evidence. But I think it acted fairly when it settled the claim as it did.

From what I've read Marshmallow made no contact with Mr N about the TP's claim. It must have been very frustrating when he learnt about this. And found that the claim had been

settled in the TP's favour. Particularly, given the impact this has had on his insurance premiums and his ability to afford cover. Because of this it's fair that Marshmallow pays Mr N compensation. But in these circumstances I'm satisfied that £300 is reasonable. So, I won't ask the business to pay more.

In summary, I don't think Marshmallow treated Mr N unfairly when it settled the claim as it did. But it should have informed him of what was happening and kept him updated. So, it's reasonable that it pays Mr N £300 compensation to put this right.

I'm sorry Mr N is facing higher insurance premiums because of this claim. But for the reasons set out in my decision, I think the liability outcome was handled fairly.

My final decision

My final decision is that I uphold this complaint in part. Marshmallow Insurance Limited should:

- pay Mr N £300 compensation for the frustration and distress it caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 27 March 2026.

Mike Waldron
Ombudsman