

The complaint

Mr A has complained that his motor insurer, Zurich Insurance Company Ltd ('Zurich'), did not pursue a third party for its outlay after it was involved in an accident with Mr A.

What happened

In April 2024 Mr A was involved in an accident with a third-party car which caused damage to his car. Mr A said the third party was at fault and collided with the rear of his car after he changed lanes.

Mr A made a claim to Zurich and Zurich wrote to the other side's insurer holding them at fault for the accident. Mr A said the third party admitted liability at the scene and also sent him a message which it later deleted.

The other side disputed liability and said the accident was caused by Mr A changing lanes. They also provided an independent witness's evidence which supported the other side's version of events and said Mr A didn't allow enough space for the third party after changing lanes.

Ultimately, Zurich decided not to pursue the third party for its outlay. The other side denied liability and invited Zurich to issue court proceedings, but Zurich didn't think those would be successful. Zurich closed the claim as a "fault" claim against Mr A and said it might also impact his no claims discount ('NCD').

Mr A said he wasn't aware that the matter had been closed and only found out some time later when he called for an update. He complained to Zurich and said it should have pursued the matter in court.

Zurich responded to Mr A's complaint, but it didn't uphold it. It said its decision not to pursue recovery of its outlay was based on the evidence available, including the witness statement provided by the other side which held him at fault for the accident. It said it did not have sufficient evidence to pursue the matter successfully through the courts.

Unhappy with Zurich's response, Mr A brought his complaint to our service. He said Zurich admitted liability without informing him. He also didn't think the witness statement provided by the other side was independent and that it was provided by the third party's passenger. Mr A added that his own passenger was never interviewed which he considered unfair. He said his premium increased because of the claim and that there will be a similar impact on future premiums. Mr A wanted for our service to:

- Overturn Zurich's decision to admit liability on his behalf;
- Ensure his witness is contacted for their statement;

- Determine whether Zurich's decision not to commence court proceedings against the third party was fair and reasonable.

One of our investigators reviewed the complaint and thought Zurich's decision not to pursue the matter further was fair and reasonable. But he thought its communication was poor and that it took around two months for Mr A to be informed the claim had been closed and his NCD disallowed. And it was only after he called Zurich himself for an update. Our investigator thought Zurich should pay Mr A £75 compensation for the distress this caused him.

Mr A didn't agree and asked for an ombudsman's decision. He insisted that the witness evidence provided by the other side was not independent. Our investigator didn't change his view and said there was no evidence the witness was a passenger in the third-party vehicle.

The matter was then 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'd like to start by saying that I was very sorry to hear about Mr A's accident and also about its impact on him.

The decision not to pursue the third party

Mr A said he wasn't at fault for the accident and allowed enough space before changing lanes. He said it was the third party that caused the collision.

From what I can see, Zurich wrote to the other side holding the third party at fault, so it did initially try to pursue the third party. I also note it passed the file to solicitors to progress bearing in mind the other side was disputing liability.

But the other side denied liability and said the accident was caused by Mr A changing lanes. And it provided a witness statement from a witness who said the accident was caused by Mr A not indicating before changing lanes and not allowing enough space for the third party to break. Mr A says he doesn't believe this witness was independent, but their statement says they didn't know either Mr A or the third party. And that they were not the passenger in the third-party car.

Bearing in mind the above evidence, I think Zurich's decision not to pursue the matter further was fair and reasonable. Zurich said it didn't have enough supporting evidence to successfully litigate the matter. I appreciate Mr A may have wanted Zurich to pursue the matter in any event, but I don't think an insurer can be expected to pursue and fund a matter to court when it believes is unlikely to succeed. The same way a private individual would not wish to incur costs pursuing legal proceedings which they are unlikely to win.

Furthermore, under the terms of the policy Zurich is able to take over and defend or settle any claim in its customer's name. It is also entitled to take legal action in its insured's name to recover any payments it makes. This means that the decision whether to pursue the

matter in court or not rests with Zurich. This is a very common term in motor insurance and one we think insurers can reasonably rely on as long as they are acting fairly and reasonably. In these specific circumstances, where Zurich decided that on the available evidence it was unlikely to be successful in pursuing the third party, I think it acted fairly and reasonably.

Mr A said that the third party admitted liability at the scene. Unfortunately, I am not aware of any other evidence in support of this but even if the other side did admit liability at the scene, it wouldn't necessarily mean that their insurer is bound by this admission. And it is not uncommon for insurers to change their stance once the matter has been referred to them and reviewed.

Mr A was also unhappy that his witness was not interviewed and thought this was unfair. I acknowledge Mr A's frustration but even if a statement had been obtained from his passenger and it supported his version of events, the existence of an independent witness statement would most likely be found to be more persuasive by a court. I appreciate Mr A doesn't think the other side's witness was independent but, according to their statement, they didn't know either of the parties. I thought it was reasonable for Zurich to, therefore, treat them as an independent witness.

Mr A said that Zurich admitted liability without his knowledge. From what I can see, I am not aware of a third party claim on Mr A's policy so I can't see that Zurich admitted liability on Mr A's behalf. But even if it had, based on the evidence above, I think this would have been fair and reasonable. I note that Zurich's decision not to pursue the third party for its outlay has impacted Mr A because it meant the claim was recorded as a "fault" claim against the policy. But I thought this decision was fair and reasonable for the reasons I referred to above.

Communication

Mr A said that Zurich decided to close the claim and record it as a fault one without letting him know. I think this is something Zurich ought to have made Mr A aware of at the time not least so that he is aware for when he takes out a new policy. I think Mr A only finding out because he asked for an update would have caused him some frustration and distress and I agree with our investigator that Zurich should pay him £75 compensation for this.

My final decision

For the reasons above I have decided to uphold this complaint. Zurich Insurance Company Ltd must pay Mr A £75 compensation for the distress and inconvenience it caused him.

Zurich Insurance Company Ltd must pay the compensation within 28 days of the date on which we tell it Mr A accepts my final decision. If it pays later than this it must also pay interest on it from the deadline date for settlement to the date of payment at 8% a year simple.

If Zurich Insurance Company Ltd considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr A how much it's taken off. It should also give Mr A a tax deduction certificate if he asks for one so he can reclaim the tax from HM

Revenue & Customs if appropriate.

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

Anastasia Serdari
Ombudsman