

complaint

Mr M complains that Liverpool Victoria Insurance Company Limited has recorded a claim on his motor insurance record.

background

A claim was made against Mr M for an accident in which a car was damaged. LV dealt with third party's claim and settled it on the basis that it couldn't defend it without clear evidence Mr M's vehicle wasn't involved.

Mr M isn't happy about this. He says he wasn't the driver and his car wasn't involved. No one else had permission to drive his car and it wasn't damaged. He believes a neighbour cloned his car's registration plates. He's unhappy that his premium has increased as a result and he wants the accident removed from his record.

Our adjudicator felt this complaint shouldn't be upheld. She said:

- The third party has evidence their car was damaged with red paint that matched that on Mr M's car. And the driver of Mr M's car was at the scene, admitted liability and gave an address. But Mr M's car has subsequently been written off and wasn't available for LV to inspect. LV has also investigated Mr M's suggestion that his car was cloned by a neighbour who has moved.
- Mr M says he wasn't at the accident scene. But the question is whether it was his car. Based on the available evidence it would be hard for LV to defend the third party's claim and show Mr M's vehicle wasn't involved. LV has therefore agreed to accept liability and settle the third party's claim.
- It's not for us to determine issues of liability. That's for a court. Mr M's policy says LV is entitled to take over and settle a claim. And here Mr M is unable to show his car wasn't involved in the accident. As result LV has acted reasonably by accepting liability. And she will not be asking it to do anymore.

Mr M remains unhappy and has asked for an ombudsman review. He says he cannot understand how someone can just decide he is guilty without proving a case.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I understand Mr M's frustration at what's happened as he says neither he nor his car was involved in the accident.

It's not our role to decide who's at fault for an accident. That is something only a court can consider. We can only look into whether the underwriter of the policy, in this case LV, has conducted a reasonable investigation into a claim, when making its own decision on liability and settlement.

Under the terms of the policy LV is entitled to defend and settle a claim as it sees fit. It also doesn't need Mr M's approval of any decision to admit liability, settle a claim or make a

payment to a third party. LV also isn't obliged to take a case to court even if the policy holder would like it to do so. It's entitled to consider the chances of success, the economics and potential costs and risks of proceeding to defend the case.

In this case I think LV has investigated matters reasonably. It considered what the parties said. It's unfortunate that Mr M's car wasn't available for inspection as it'd been written off but the third party's description of the car involved and the traces of red paint appear to match Mr M's car. LV has also investigated the possible identity of the driver and the suggestion Mr M's car was cloned.

Having considered all the available evidence LV didn't think it could successfully prove that Mr M's car wasn't involved. And it decided to accept liability and settle the third party's claim.

Mr M may disagree with LV's interpretation of the evidence and decision to settle the claim on this basis but I don't think it's failed to comply with the policy terms or exercised its discretion unfairly or unreasonably when deciding to settle the case as it's done.

Mr M says he cannot understand how someone can just decide he is guilty without proving a case. But that isn't what LV has done. Guilt is something only the criminal courts can find. Here LV has made its decision based on what it thinks would most likely happen on the balance of probabilities if the case was progressed in a civil court. And it has concluded that the available evidence wouldn't prove that it was more likely Mr M's car wasn't involved, than not. I don't think that's an unreasonable conclusion.

I understand Mr M's frustration and strength of feeling. But taking everything into account I don't think LV has done anything wrong. And I don't think I can fairly or reasonably require it to do anything more including removing this claim from Mr M's record as he'd like.

Overall I don't see a compelling reason to change the proposed outcome in this case.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 December 2019.

Stephen Cooper
ombudsman