

## **complaint**

Mr C is unhappy about the way Auxillis Limited handled his claim after he was involved in a road traffic accident.

## **background**

In July 2018, Mr C was involved in an accident that he said wasn't his fault. His car was hit by another car from behind. As Mr C didn't think he was liable for the accident he used the services of Auxillis and didn't make a claim against his motor insurance policy. On inspection his car was considered beyond economical repair.

He said he was offered a pre accident value settlement of £2294 less £298.22 for salvage. Mr C said he decided to accept the overall payout and his car was collected in August 2018. But instead of receiving £2294 Mr C said he only received a cheque for £298.22. Mr C said he tried to get the matter resolved but Auxillis didn't call him back. And when he asked for his car to be returned, he found out it had been sold at auction.

Auxillis said as there was a dispute about the third party insurer (TPI), and they'd agreed with Mr C for the claim to be passed back to his own insurer for it to be pursued under his motor insurance policy.

Mr C referred his complaint to us, as he hasn't received the settlement for his accident. His insurer has said his claim was closed as it had been dealt with by Auxillis.

Our investigator said Auxillis hadn't done enough. She said they'd failed to pass on information to Mr C about his claim. And hadn't responded to the TPI when they'd agreed to settle. This meant Mr C's claim was rejected by the TPI. So, he'd been left financially disadvantaged in not receiving the remaining £1,995.78 for his settlement. She said Auxillis should liaise with the TPI to get Mr C the remainder of his settlement. And once paid apply 8% simple interest from the date he should have received the amount to the date of settlement. She also said Auxillis should pay Mr C £250 for the trouble and upset that had been caused.

Auxillis didn't agree, they said they had followed industry process and had passed back Mr C's claim to his insurer. And it was for them to have arranged Mr C's settlement.

I issued a provisional decision in February 2021 that said:

## my findings

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 currently minded to uphold this complaint. I'll explain why.*

*Up until 31 March 2019, AMCs were regulated by the Claims Management Regulator. And complaints about AMCs were dealt with by the Legal Ombudsman. On 1 April 2019 the regulation of AMCs switched to the Financial Conduct Authority, and complaints moved to the Claims Management Ombudsman. Because the events Mr C is complaining about took place before this change in regulation, my decision is based on the approach the Claims Management Regulator and Legal Ombudsman would have taken.*

*Auxillis as an AMC manage claims by arranging a hire car, where needed, organising repairs or determining pre-accident value of the car if it's deemed non repairable and claiming these costs back from the TPI. Where there is a dispute about liability or potential delay in settlement, I'd expect to see the AMC advise their customer to make a claim against their own insurance policy.*

*So, I've looked at what has happened here. Due to the time that has elapsed relevant call recordings are no longer available. Where there is a different version of events, as is the case here, I will base my decision on what I think most likely happened.*

*The dispute centres around who the TPI was, either "G" or "U". And who was handling Mr C's claim, Auxillis or his insurer. I can understand Mr C's frustration as he hadn't caused the accident and was now at a financial loss as he hadn't received his settlement.*

*I've checked Auxillis' records and on their "Claim Creation Form" the details of the accident are given, the date of the accident July 2018, the names and details of the drivers and the relevant insurers for both parties. The TPI is given as, "G".*

*I can see that towards the end of July 2018, "G" said they'd carried out a check on the Motor Insurance database (MID). All insurers have a legal requirement to provide data about insurance to the database. The MID is a guide, as it might not show the most up to date data, or a possible error when sending the data for example incorrect registration number. And they'd told Auxillis that the TPI was another insurer "U". I can also see that the pre accident valuation of Mr C's car had been agreed and Auxillis sent the engineers report for Mr C's car to both TPI's.*

*Auxillis records show "G" on 8 August 2018 asked for the total loss report so they could consider Mr C's claim. But in mid- August 2018, Auxillis told both Mr C and his insurer that:*

*"Unfortunately, the third party will not be able to release total loss payment as they believe it is a mistaken identity. We have now reverted this claim back to your own insurance company."*

*The calls made with Mr C are no longer available. And neither Auxillis' notes or their notification to Mr C show any instruction to Mr C as to what if anything he needed to do. And Auxillis' records go on to show Mr C called 15 August 2018, as he'd already received the salvage cheque of £298.22 and wanted his settlement or his car returned but it had already been sold at auction.*

*I can also see that a few days later "G" agreed to deal with the claim. Auxillis in their final response have said they took back the claim at this point. Their records also show that later in the month Mr C's insurer told them they wouldn't be taking back the claim as there had been a settlement. So, I think at this point Auxillis should have completed Mr C's claim as the TPI had been clarified, the PAV had been agreed, and Mr C's insurer hadn't accepted the pass back.*

*Auxillis' records, 5 September 2018 mention a pass back to Mr C's insurer but there isn't any record of this having been accepted or any update to Mr C about what was happening with his claim. I can also see Auxillis on 5 February 2020 told Mr C:*

*"We are pleased to confirm that the Third Party Insurers have admitted liability for the incident. We shall update you further in due course."*

*Our investigator said Auxillis should work with the TPI to arrange for Mr C's settlement to be paid. Auxillis has said they'd followed industry standards and passed back Mr C's claim so they weren't able to work with the TPI. But as I've outlined above, I think the reason why things have gone wrong here is Auxillis' administration of Mr C's claim. They arranged for the pre valuation report to be done, and this led to Mr C's car being sold at auction. And I think its clear Mr C's claim wasn't being handled by his insurer, as both they and Mr C considered Auxillis to be handling the claim. Mr C still hasn't received his remaining settlement.*

*So, I'm intending to uphold this complaint. And I think to put things right, Auxillis should pay Mr C the balance of his settlement £1,995.78 plus 8% from when there was confirmation the TPI had accepted liability. And it will be for them to seek their redress from the TPI.*

*Mr C has experienced trouble and upset at a time when he'd not only been involved in an accident that wasn't his fault. But in trying to recover the financial impact of the accident. So, I think Auxillis should pay him £250 for trouble and upset.*

## **responses to my provisional decision**

Mr C accepted my provisional decision.

Auxillis haven't commented.

## **my final decision**

I uphold this complaint. And ask Auxillis Limited to

- pay Mr C the balance settlement of £1,995.78 plus \*8% from when it was confirmed the TPI had accepted liability; and
- £250 for trouble and upset.

\*HM Revenue & Customs requires Auxillis Limited to take off tax from this interest. Auxillis Limited must give Mr C a certificate showing how much tax they've taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 22 April 2021.

Anne Scarr  
**ombudsman**