

## **complaint**

Mr E complains that Admiral Insurance Company Limited is accepting liability on his behalf for an accident he wasn't involved in. He would like Admiral to defend the claim and compensate him for the stress and anxiety this has caused.

## **background**

Admiral was notified of a claim against Mr E relating to an accident said to have taken place on 14 December 2015. Mr E denies he was involved. He says the police didn't go ahead with a prosecution because they accepted there was no evidence against him.

The adjudicator who looked at Mr E's complaint thought that Admiral had acted fairly. Mr E doesn't agree and says that the adjudicator was biased in Admiral's favour. He states that the claims handler he spoke to in May 2016 had told him it might be a case of mistaken identity and that Admiral would defend the claim on Mr E's behalf. He told Mr E they'd asked the third party insurer to provide a description of Mr E and a plan showing the point of impact. Mr E says this information hasn't been provided so it's not fair for Admiral to concede liability.

## **my findings**

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

Under the terms of Mr E's policy Admiral can settle or defend a claim even if he doesn't agree with its decision. We would only intervene if we thought Admiral hadn't acted fairly. For example if it hadn't investigated the claim properly or had overlooked an important piece of evidence when it decided not to fight the claim.

In this case the matter is ongoing. However Admiral has said that, if the third party issues court proceedings against Mr E, it would have to consider reaching a settlement with the third party insurer.

The third party has sent a rough plan of the accident. This shows a car that he says belongs to Mr E, reversing into his vehicle. The plan does not show the precise point of impact. Admiral asked an independent engineer to inspect both vehicles. The engineer found scuff marks around Mr E's rear bumper which would be consistent with the impact described by the third party. He noted extensive damage to the third party vehicle, but again there were marks that would be consistent with the circumstances the third party has described. The engineer indicated the angle at which a collision might have taken place, although his findings are not conclusive one way or the other.

The third party provided Mr E's registration number and gave a description of his car that matches (though no description of Mr E has been forthcoming).

Admiral has also noted that the location of the accident is less than a mile from where Mr E lives.

Taking all this into account I think Admiral has taken reasonable steps to investigate whether Mr E was involved in this accident. The fact that the police decided not to bring criminal

proceedings doesn't really help one way or the other. The standard of proof used in a civil claim relating to a road traffic accident is the balance of probabilities (in this case whether it's more likely than not that it was Mr E's car that was involved in the accident).

In deciding whether to continue to defend a claim or try to settle it, Admiral can take commercial considerations into account. If the case did go to a contested trial and the court decided in favour of the third party, Admiral would end up paying, not only for the damage to the other car to be repaired along with any other expenses, but both sides' legal costs. Negotiating a settlement also provides the opportunity to agree a smaller payment to the third party.

Admiral has been active in defending the claim on Mr E's behalf. It has refused to pass on Mr E's details to the third party insurer. I think it is entitled to decide that, although the evidence against Mr E is not conclusive, the evidence that there is does mean there is a very real risk that a court would find in favour of the third party. So I don't think its decision to try and settle the claim on the best terms possible, should court proceedings be issued, is unfair or goes beyond the scope of the terms and conditions of the policy that Mr E signed up to when he took it out.

I can appreciate how frustrating the whole experience has been for Mr E. But the fact that Admiral has continued to defend the claim has inevitably added to the delay in resolving this matter. I can also understand why Mr E feels so strongly that, having initially been supportive of his case, Admiral has let him down badly by telling him it can't continue to do so, if faced with expensive court proceedings. But ultimately this is a commercial judgment that is open to Admiral under the policy conditions.

### **my final decision**

I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 29 May 2017.

Melanie McDonald  
**ombudsman**