



## **complaint**

Mrs N complains that an error in amending her motor insurance policy on Be Wiser Insurance Services Ltd's part led to her daughter driving uninsured and being held personally liable for an accident.

## **background**

Mr and Mrs N insured two cars through Be Wiser. Following a change of vehicle, they asked Be Wiser to amend the policy on one car. In error, Be Wiser amended the policy on their other car, for which their daughter was insured as a named driver. Unknowingly, that car was left without insurance cover. Mrs N's daughter was later involved in an accident. Mrs N, her husband and her daughter had to deal with the police, the Motor Insurers Bureau (MIB) and the third party's solicitors. They instructed their own solicitor, as they say they received little assistance from Be Wiser, and subsequently required it to pay the bill. Be Wiser considered that solicitors should not have been instructed and decided not to pay the bill, but it did apologise to Mrs N and pay her £250 in compensation.

Our adjudicator upheld Mrs N's complaint. In her view, Be Wiser not only made the initial error that led to the uninsured event, but also failed to provide Mrs N with support and advice when she was dealing with the various parties following the accident. In the adjudicator's view, Mrs N had no choice but to instruct her own solicitors to deal with the claim. As Be Wiser disagreed, the complaint was passed to me for review.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

As the error has been accepted by Be Wiser, the remaining issue is whether it was reasonable for Mrs N to seek legal representation. I have noted all the comments made by Be Wiser on the matter, and I note its opinion that Mrs N had no cause to contact a solicitor, as she was not told that indemnity for the claim would not be provided. Whilst that may be correct, it appears that Mrs N was not advised that indemnity *would* be provided until several months after the accident. In my view, that left her in an unenviable and precarious position.

During the intervening period, I am satisfied that she and her family had to deal with an entirely unfamiliar set of circumstances. There is no evidence that Be Wiser tried to assist. The involvement of the police and the MIB is likely to have been alarming for Mrs N and her family, in my opinion. Being contacted by the third party's solicitors is likely to have raised the matter to another level. I note that Be Wiser considers the matter not to be complex, but in my opinion, an average consumer is likely to have found it both complicated and confusing. As indemnity was in question, there was also the possibility of personal liability for the accident resting with Mrs N's daughter. In these circumstances, it seems reasonable enough to me that Mrs N wanted the reassurance of legal advice and support.

The question is whether she could have mitigated her losses and received free legal advice and support elsewhere. I agree that she could have obtained some free (but very limited) guidance from this service, but we do not offer potential complainants anything approaching the sort of support Mrs N received from her solicitors. She could also have used the services

of a Citizens Advice Bureau (CAB) or other advice agency, but again, given the strain on all these voluntary agencies, the assistance they are likely to have been able to provide would have been very limited, in my opinion.

On balance I think it was reasonable for Mrs N to instruct her own solicitors. I note that they dealt with the police, the MIB, the third party solicitors, the insurer and Be Wiser on her behalf, drafting numerous letters and emails and making a substantial number of telephone calls. I do not consider that Mrs N could have received that level of service elsewhere without having to pay for it. As the solicitors' fees were incurred as a direct result of Be Wiser's error, I am satisfied that it would be fair and reasonable for it to reimburse Mrs N for the sum she has paid, plus interest.

In my opinion, Mrs N undoubtedly experienced distress and inconvenience as a result of Be Wiser's error. I note that it has already paid her £250 in compensation. I consider that a further small sum should be paid, as suggested by the adjudicator.

### **my final decision**

My final decision is that I uphold this complaint. I require Be Wiser Insurance Services Ltd to do the following:

- Reimburse Mrs N for the cost of her legal fees (£3,600)
- Add interest at 8% simple p.a., from the date the invoice was paid to the date of settlement
- Pay Mrs N a further £50 in compensation for distress and inconvenience

Susan Ewins  
**ombudsman**