

complaint

Mr N has complained that Tradewise Insurance Company Limited has settled a third party claim under his motor policy.

our initial conclusions

The adjudicator did not uphold Mr N's complaint. She considered that Tradewise had reasonably investigated the accident and acted in accordance with the terms of the policy. Mr N did not agree, arguing that the independent witness' statement should not be considered valid.

my final decision

To decide what is fair and reasonable in this complaint, I have considered everything that Mr N and Tradewise have provided.

This service does not decide who was responsible for the accident, as this is the role of the courts. We can, however, consider whether the insurer has acted fairly and reasonably and according to the terms of the policy. Mr N's policy (like most policies) has a term that permits it to take over the defence or settlement of a claim and handle the claim as it sees fit. This term was also detailed in the statement that Mr N signed which concerns the circumstances of the accident. The inclusion of this term allows insurers to make an informed decision as to its chances of successfully defending the claim or obtaining a recovery from the third party. If there is little chance of success an insurer will seek to limit its outlay. In Mr N's case, an independent witness has said Mr N was responsible for the accident. Given this, it is likely Tradewise would be unable to successfully defend the third party's claim in court. Therefore I find Tradewise acted reasonably in settling the third party's claim. Whilst I note Mr N believes this witness statement should not be considered valid, he has not produced any evidence to substantiate this.

For the reasons above it is my final decision that I do not uphold this complaint and I make no order against Tradewise.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr N either to accept or reject my decision, in writing, before 28 June 2013.

Rona Doyle
ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.