

complaint

Mrs C is complaining that Liverpool Victoria Insurance Company Limited ('LV') didn't obtain CCTV footage of a third party's vehicle hitting her car. She says it should've got this as her car insurance provider.

background

Mrs C's car was hit by a third party's vehicle in a car park. The third party drove off without leaving their details. Mrs C contacted the council to get CCTV, but the council said she'd have to get her insurer to ask for it. It said that it only kept CCTV footage for 28 days.

Mrs C emailed LV and then later chased a response to this email. LV replied a few days later asking for details of her policy. But Mrs C said that by this time it was too late to get the CCTV. She complained to LV that it didn't reply to her emails. And she says she's lost out as a result as she's had to pay for the repairs privately.

LV said that, as she didn't make a claim, it wasn't able to get the footage. And, even if it did have the footage, it couldn't share it with her for data protection reasons.

Our investigator didn't uphold the complaint. Mrs C didn't agree and asked for an ombudsman to review the complaint.

my findings

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

The issue I have to decide is whether LV should've taken further steps to help Mrs C. And, if so, whether I think she's lost out as a result. I've decided to not uphold this complaint and I'd like to explain why.

The council emailed Mrs C on 17 November 2016 saying that she had to ask her insurer to request the CCTV footage. It said that it can't provide her with details of the third party's vehicle because to do so would be a breach of the Data Protection Act ('DPA'). It said that it only keeps CCTV footage for 28 days. So it said it would be deleted on 8 December 2016.

Mrs C didn't contact LV until 1 December 2016 and she did so by email. By this time, there was only seven days left to get the CCTV footage. Given the urgency of the situation, I would've thought the best way to ensure this was done would've been for Mrs C to have phoned LV instead of emailing.

LV has told us that it has no record of ever receiving the email on 1 December 2016. But, even if it did receive it, Mrs C didn't include any of her insurance details in the email – e.g. her policy number or car registration number– for it to act on her behalf. So LV wouldn't be able to identify her from this. Given this, even if LV received the email and responded within its usual timeframes, I don't think it would've had enough time to request the CCTV before it was deleted. So I don't think she's lost out as a result of any delays that LV may have caused, if it in fact caused any.

I note Mrs C is unhappy that LV told her that she would've had to make a claim before it could've obtained the CCTV footage. But LV has to comply with the DPA in the same way

the council did. So she wouldn't have had to claim to get the CCTV footage. But if LV got the CCTV footage it wouldn't be able to give her the third party's details under the DPA rules.

It's possible LV could've looked to pursue the third party under an uninsured loss recovery policy, if she took one out with her car insurance policy. But ultimately it wasn't able to because of the length of time it took Mrs C to report the incident to it. Under the terms of her insurance policy, she needed to give LV "*full details of any accident as soon as possible*". Mrs C didn't tell LV about the incident straight away and ultimately this has prejudiced its ability to pursue the third party for the losses she's incurred.

I naturally sympathise with the situation Mrs C has found herself in as she's lost out to the actions of a third party. But I can't say that LV has caused her to lose out. The ultimate fault for this has to rest with the third party who drove off without leaving their details. But I can't hold LV responsible for that.

my final decision

For the reasons I've set out above, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 24 November 2017.

Guy Mitchell
ombudsman