

complaint

Company J, through its director Mr R, complains about the handling by The National Farmers' Union Mutual Insurance Society Limited ("NFU") of a claim against its commercial vehicle insurance. Specifically, Mr R believes that NFU did not obtain sufficient evidence from the third party when it disputed the claim, and as a result it provided him with information which led him to dismiss an employee.

background

A claim was made on the company policy for damage to the wing mirror of a company vehicle after a collision with a lorry. (The company vehicle was being driven by the wife of a company employee at the time.) NFU contacted the third party's insurer. The third party insurer was not prepared to meet the claim as the registration number provided by the company employee was for a vehicle which was not in the locality of the incident at the time it was reported as happening. When NFU received this response, it contacted Mr R by letter to update him and to ask for further details regarding the claim.

Based on this, Mr R believed that NFU was suggesting his company employee was making a spurious claim. Mr R then dismissed the employee, who brought a successful action against his dismissal in the employment tribunal.

Subsequently it was found that the registration number given by the company employee was incorrect by one digit. Although a vehicle of the corrected registration had been in the area of the collision, the third party would still not accept liability.

Mr R believed that because NFU could not substantiate the third party's response to the claim and because of the letter it had sent him, it should be responsible for the decision of the employment tribunal. NFU did not agree with this position. It also pointed out that given the amount of the claim (approximately £290), it would not pursue the matter through the courts. The matter was referred to our service.

The adjudicator assessed the complaint. She believed that the letter from NFU had simply set out the position of the claim; and that it did not suggest that a spurious claim was being made. She felt that she could not hold NFU responsible for Mr R's response to the letter or the decisions he made as a result.

As Mr R disagreed, the matter has been passed to me to decide.

my findings

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

When investigating claims where liability is in question, an insurer is entitled to have regard to pragmatic and commercial considerations such as the potential financial outlay of taking the matter further, and the likely prospects of success. So, the fact that NFU did not pursue the matter does not necessarily mean it considered Mr R's company employee was at fault or was not bringing a valid claim. However, the onus is on the party making a claim to prove that the third party was negligent, and it becomes a question of the available evidence and its 'weight'. In this case, no compelling evidence (for example, in the form of independent witness statements) has been presented and Mr R is concerned that NFU itself did not obtain sufficient evidence from the third party when the third party denied involvement in the

accident. However, NFU contacted the third party insurers when notified of the claim, and requested further evidence, which was not provided. Given also that the actual identity of the third party vehicle was disputed (and there was no supporting evidence connecting the vehicle with the corrected registration number to the incident), NFU decided not to pursue the matter further. Under the circumstances of the case, including the relatively small amount involved in the claim, I do not consider it unreasonable for NFU to have done so.

In the course of its investigations, NFU wrote to Mr R to advise of the third party's response – namely that the vehicle with the registration number originally provided had not been in the area of the incident at the time it occurred. That letter went on to request from Mr R confirmation of “all the details you obtained for the third party at the scene”. I do not consider that the wording or ‘tone’ of that letter suggests that Mr R or his employee was making a spurious claim against the third party: it simply conveys what the third party has said and asks for further information. This sort of correspondence is to be expected as part of a claim investigation, as it communicates the third party's position and provides the opportunity for a response. There is nothing in the letter which I consider could reasonably be interpreted as suggesting that NFU itself had particular concerns about the veracity of the claim. Nor have I seen anything else on NFU's internal file (including its communications with Mr R) as made available to this service, or in the material provided by Mr R, which suggests to me that Mr R's company employee was making a spurious claim (or that NFU necessarily thought so either).

I understand Mr R requested that NFU provide him with evidence in support of the third party's position, but this was not provided, because it was not received from the third party despite NFU's requests. It also appears Mr R was not advised immediately when NFU did decide not to take further action (in the absence of anything more from the third party).

However, NFU has no control over the actions or responses of the third party or its insurer (including how promptly they respond), and while it might have been more proactive in pursuing outstanding information, under the circumstances, I am not persuaded that it acted unreasonably or unfairly.

In particular, I am not persuaded that NFU can reasonably be held responsible for Mr R's reaction to its handling of the claim and its communications with him (specifically, his dismissal of the company employee); or for the consequences that flowed from the dismissal based on that reaction. Mr R has acknowledged that the dismissal was a “drastic measure” taken “spontaneously” when he heard the vehicle identified as the third party in the accident could not actually have been involved. However, I note Mr R has indicated that he had other concerns about that employee, and it is possible that they also influenced his actions. In any case, the decision Mr R made to dismiss the employee, and the steps he took to carry out that decision, were a matter for him, and I do not consider that it would be fair or reasonable to hold NFU responsible for that decision or the consequences of it.

my final decision

For the reasons above, it is my final decision that I do not uphold this complaint.

Helen Moye
ombudsman