

## **complaint**

Mr M complains about how Endsleigh Insurance Services Ltd (a broker) dealt with the renewal of the motor insurance policy for his car. He says Endsleigh removed cover for him to drive other vehicles. He says it should settle claims against him arising from an accident.

## **background**

Mr M took out a policy for his car through Endsleigh. In 2012 it got him cover to drive other cars. But – on a renewal the next year - Endsleigh did not continue the cover for other cars. Mr M then reported that he had been involved in an accident in someone else's car. He says he faced claims against which the insurer declined to indemnify him. He complained to Endsleigh.

### *our adjudicator's view*

The adjudicator recommended that the complaint should be upheld. He concluded that Endsleigh was aware of Mr M's needs and failed to find him a suitable product. He recommended that Endsleigh should pay Mr M:

1. the cost of meeting all liabilities reasonably expected to be paid to the third party motorist because of the accident;
2. interest on such cost at 8% per annum;
3. any sum Mr M has paid out;
4. £150 for distress and inconvenience.

### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mr M and to Endsleigh on 9 May 2014. I summarise my findings:

the "key facts" ® policy summary said:

*"Excluding driving other cars – cover for driving other cars is excluded."*

Endsleigh took sufficient steps to draw the changes to Mr M's attention.

I was not persuaded that Endsleigh treated Mr M unfairly or unreasonably or that it was the cause of his distress and inconvenience.

I invited Mr M to provide up to date documents and details of who had made what claims against him, whether he accepted liability and how much he had paid.

Subject to any further representations by Mr M or Endsleigh, my provisional decision was that I was not minded to uphold this complaint.

Mr M disagrees with the provisional decision. In summary, he says that – on the automatic renewal a few days before the accident - he expected the same level of cover as on the previous policy. He says he did not have access to his email at that time. A few days after the accident, Endsleigh was able to arrange cover for driving other vehicles, he adds.

Endsleigh agrees with the provisional decision and has nothing to add.

## my findings

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

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I have seen a copy of a certificate of motor insurance dated 2012 issued to Mr M. It does not state a make or model of car. But it states a vehicle registration number consistent with a vehicle over fifteen years old. The certificate includes the following:

***“5. persons or classes of person entitled to drive***

*The Policyholder – who may also drive with the permission of the owner any private motor car not owned by the Policyholder or hired to the Policyholder under a hire purchase agreement or leased to the Policyholder under a leasing agreement or provided to the Policyholder as a courtesy car and not owned by or hired or lent to the Policyholder by your employer or business partner.”*

I accept that Mr M had asked Endsleigh to arrange this. So Mr M was permitted to drive a friend's car, for example.

I have also seen Mr M's "personal profile with Endsleigh" for 2013. It gives the same registration number and gives the make and model of a small hatchback, valued at £900. It also states Mr M's occupation as "Chauffeur". I find it likely that these details had not changed from 2012.

The personal profile contains the following wording:

*“Changes to your cover...*

*The following terms have been added and now apply to your policy:-*

*Excluding driving other cars – cover for driving other cars is excluded*

*The following terms no longer apply to your policy:-*

*continued over page...*

*DRIVING OTHER CARS – The policyholder- who may also drive with the permission of the owner any private motor car not owned by the policyholder or hired to the Policyholder under a hire purchase agreement. This cover does not apply if the other private motor car you are driving is...being kept or used in connection with you or your employer's business.”*

I have also seen a copy of the renewal letter which referred to the personal profile. It said:

***“No changes – do nothing...***

***Changes – call us...***

***IMPORTANT NOTE –Your cover – it is important that you read the enclosed documents carefully for full details of your cover. Failure to do so may result in...non payment of a claim.***

*It is our aim to offer you the same level of cover as you had last year. If this has not been possible you will find details of changes in the policy summary. If you're no longer eligible for the cover we'll advise you under the section- Your personal profile with Endsleigh."*

I place particular weight on the "key facts" policy summary. It says:

*"Excluding driving other cars – cover for driving other cars is excluded."*

I have also seen the certificate of motor insurance for 2013. In contrast to the certificate for the preceding year it contained the following paragraph:

**5. persons or classes of person entitled to drive**

*The Policyholder – cover for driving other vehicles is cancelled"*

A few days after the renewal Mr M reported that he had been involved in an accident while driving someone else's car. Mr M later told us:

*"I checked my email and found the new policy..."*

I conclude that – even on an automatic renewal - Mr M bears responsibility for not checking his emails and the policy details earlier. I infer that he had given Endsleigh his email address.

I also bear in mind Endsleigh's "Status Disclosure" which included the following term:

*"Any information we provide you with does not constitute advice or a personal recommendation and you agree to make your own choice about how to proceed. We may ask questions to narrow down the selection of products that we will provide information on. Based on the information you have given, we are confident that the cover shown is suitable for your needs."*

Overall, I consider that Endsleigh took sufficient steps to draw the changes to Mr M's attention. I am not persuaded that Endsleigh treated Mr M unfairly or unreasonably or that it was the cause of his distress and inconvenience.

I invited Mr M to provide up to date documents and details of who had made what claims against him, whether he accepted liability and how much he had paid. He has not provided any claim documents. But he says that he was driving someone else's car when he caused serious damage to a taxi and injured its driver and passenger.

I have no reason to doubt his statement that he fears that the insurer which meets their claims will seek reimbursement from him. But I am not persuaded that it would be fair and reasonable to order Endsleigh to cover this liability.

**my final decision**

For the reasons I have explained, my final decision is that I do not uphold this complaint. I make no award against Endsleigh Insurance Services Ltd.

Christopher Gilbert  
**ombudsman**