

complaint

Mr B's unhappy with the settlement he got after being involved in an accident that wasn't his fault. The settlement came from the other driver's insurance company. Be Wiser Insurance Services Ltd sold Mr B his motor insurance policy.

background

I sent the parties a provisional decision in February setting out the background and my initial thoughts on the outcome of this case. A copy of that decision follows this final decision.

The adjudicator who first looked at this complaint didn't think we could look at Mr B's complaint as it was about the actions of other companies and not Be Wiser. In summary, I said I couldn't look at the claim settlement as it came from a third party company and wasn't anything to do with Be Wiser. But I could look at whether Be Wiser gave Mr B enough information so that he could make an informed choice about whether to deal with his claim under his insurance policy, or as he did through another company outside of his policy.

Be Wiser said it had nothing to add in reply to my provisional decision. Mr B's also replied and set out some points that were already available from the information he'd previously given us. I've taken all those points into account, as well as all the original information in deciding this case.

my findings

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

I've listened to a call recording between Mr B and C – it's apparent that Be Wiser used C to manage claims. In this call Mr B mentions that he's called Be Wiser and the insurer. But he also said at a couple of points that he was confused about who was who and doing what. During the call he's told to call his insurer to see if it was repairing the motor bike as Mr B had said it had sent a recovery vehicle out to collect it from the roadside. And C said that it wouldn't do anything more until Mr B called back to say what the insurer was doing and what he wanted to happen next.

There was a conversation about whether he'd have to pay his policy excess and he was told that he would only do so if the claim was handled by the insurer. But if he wanted C to manage the claim then he wouldn't, as it dealt with the third party's insurer directly. What I do think was apparent was that Mr B was aware that either his insurer could deal with things or C could. And if C did then his insurance policy wasn't being used. Mr B gave C authority to deal with things for him and so I think he knew he wasn't dealing with his insurance policy.

So, while I accept Mr B might have called Be Wiser, and Be Wiser uses C to manage claims, having listened to the call I think there was enough information given to Mr B so that he knew his claim wouldn't be dealt with under his insurance policy. So I don't think Be Wiser is responsible for the things that Mr B's unhappy about.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 April 2016.

Sean Hamilton
ombudsman

Copy of Provisional Decision

complaint

Mr B's unhappy with the settlement he got after being involved in an accident that wasn't his fault. The settlement came from the other driver's insurance company. Be Wiser Insurance Services Ltd sold Mr B his motor insurance policy.

background

After the accident Mr B became involved with a number of different companies that had some part to play in settling his claim. The settlement value came from the other insurer via a company I'll call 'D'.

Mr B was using a claims management company I'll call 'C' that he'd been in touch with from the start of the claim and who he says Be Wiser referred him to. C raised Mr B's complaint with D but Mr B wasn't happy with D's reply and complained further, but didn't anything so he came to us.

An adjudicator didn't think we could look at the substance of Mr B's concerns as they involved other companies. But it's also suggested by Mr B that Be Wiser didn't refer him to his actual insurer.

my provisional findings

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

The main issue Mr B has is about the settlement value he received from D but he's also unhappy with C. Be Wiser wasn't involved with the settlement or engagement with D so I don't think it should be held responsible for the settlement and how the claim was handled.

The only thing I can look at against Be Wiser is whether it gave Mr B enough information so that he could decide whether to use his insurer or the services of a claims management company outside his policy. The reason for this is that I think it's reasonable to expect Be Wiser to give sufficient information, whether from itself or any other company that it asks to do this for it, to Mr B so that he could make an informed decision.

Be Wiser hasn't given me any information that showed it dealt with Mr B directly. But Mr B has said he called a Freephone number linked to Be Wiser. He says he got the number from the information Be Wiser sent him and I think that's likely to be correct.

Be Wiser says the call would have gone through to C and C has sent a call recording. If C made Mr B's choice clear then I think that would be enough to show Be Wiser had given enough information too. When a consumer calls their insurance broker to assist in the performance of the insurance contract, I think it's reasonable to expect the broker to ensure the choice between using the insurance policy or a separate claims management service is made clear. Unfortunately the call file is corrupted and won't 'open' and so we haven't been able to listen to it.

Mr B wanted to pursue a personal injury claim but that's not something his policy covers. So it makes sense to me that he would have used the claims management service as they would have been able to pursue any uninsured losses, such as an injury, with the other insurer for Mr B which his insurer wouldn't. The insurer would have paid him the market value of his vehicle and charged his excess. So even if Mr B thought he wasn't given enough information when he first called about his claim, I don't think it wouldn't have made any difference to how he decided to progress it.

All things considered I don't think Mr B dealt with Be Wiser other than using a number it provided. It seems to me that the issues at the heart of his complaint lie with C and the other insurer's representative firms, including D, because of the claims management service provided. So I don't find Be Wiser at fault for anything in Mr B's case.

Our adjudicator has given Mr B details of the Legal Ombudsman who might be able to help with any complaint he might want to make about C and/or D. These are claims management companies who were carrying out claims handling activities which the Legal Ombudsman might well be able to investigate.

my provisional decision

For the reasons explained my provisional decision is that we can look at some of Mr B's complaint against Be Wiser Insurance Services Ltd. But having looked at everything I don't think Be Wiser has treated Mr B unfairly or should be held responsible from the main issues in his complaint.

Sean Hamilton
ombudsman