

complaint

Mr W complains about how UK Insurance Limited ("UKI") handled and settled a fault claim under his motor insurance policy, without keeping him informed and without considering all the evidence.

background

Mr W's vehicle, driven by a named driver under the policy, was involved in a minor road traffic incident. The named driver admitted she had made contact with the rear of the vehicle in front of her and UKI agreed to settle a claim for damage brought by the third party. Mr W was not informed of the claim until after it was settled, and was sent incorrect information about the amount of the settlement.

The adjudicator partially upheld this complaint. He felt that UKI had been wrong to write to Mr W informing him that the claim has been settled for an amount which was incorrect and much higher than the £185.10 which was the figure previously advised to him. UKI therefore agreed to pay Mr W £100 compensation for the distress and inconvenience caused.

However, with regard to liability and given the engineer's report, the adjudicator considered that it was reasonable for UKI to have settled as it did.

Mr W did not agree and the matter was therefore referred to me to decide.

my findings

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

It is not the role of this service to decide which party is liable for causing an accident; that is the role of the courts. However, we do consider whether a business has acted within the terms of a policy and reached its decision in a fair and reasonable way. The policy gives UKI discretion to take over and deal with the defence and settlement of any claim. Provided UKI reaches its decision fairly and reasonably, having considered the available information and circumstances of the incident, we are unlikely to intervene. If there is little or no prospect of success, a business may decide to limit its potential financial outlay for legal and associated costs, by agreeing a settlement out of court.

The driver of Mr W's vehicle at the time of the incident does not dispute that the incident occurred, and admitted rolling forward into the rear of the third party vehicle. So UKI proceeded on the basis that she was at fault. Given the circumstances of the incident, I consider it was not unreasonable for UKI to have accepted liability and settled without pursuing the matter through the courts, particularly given the fact that the incident was relatively minor. The outstanding issue, however, was how much damage had been caused and whether the agreed settlement figure was reasonable.

Mr W is unhappy that the driver's version of events and other evidence was not taken into account by UKI. This included the two witnesses who were in his car at the time. As it is unlikely that those witnesses would be considered wholly 'independent' under the circumstances, I do not consider it unreasonable that UKI did not follow them up or take statements from them.

In addition, Mr W says that photographs taken by the driver of his car showed no damage to the other car, and that the other driver acknowledged at the time that there was no damage. However, when the third party did make a claim about two weeks after the incident, UKI's engineer inspected the other vehicle and reported that it was "likely" that the damage claimed had been caused by Mr W's car.

Because Mr W's car sustained no damage, UKI did not inspect it. Mr W argues that the evidence of some scratches on the other car is not clearly attributable to a 'bump' with his vehicle. He is also adamant that there was no damage to the other car's registration plate, as was claimed, and he does not believe the damage to the other vehicle's tail lights could have been caused by his vehicle. He has expressed concern that the third party claim was not genuine, however this is not something that can be decided here, and no compelling evidence has been provided to suggest that UKI was unreasonable in accepting the claim as genuine and dealing with it as it did.

In the absence of independent witnesses or other conclusive information, it becomes a matter of considering the conflicting viewpoints and taking account of any expert evidence. It is then open to UKI to make a pragmatic and commercial decision on how to deal with the claim, having regard to the likely prospects of success in disputing it. Under the circumstances, I consider that it was not unreasonable for UKI to have relied on the expert opinion of its engineer regarding the damage to the other vehicle, and whether or not it was consistent with the account of the incident.

I appreciate that Mr W is also concerned that he was not made aware of the claim – or indeed the incident – until after the settlement had been decided. While I acknowledge that it would have been good practice for UKI to have let Mr W know at an early stage about the claim, it was not obliged under the policy to do that, and I do not consider Mr W has been materially prejudiced as a result of its not doing so. While I do not underestimate the impact of any traffic accident and resulting claim – however 'minor' - on Mr W or any driver, the circumstances of this and the issue of liability appear to be quite straightforward.

Whether a claim is settled on a 100% fault or 50/50 split liability basis, it will still count as a 'fault' claim and will be recorded against a policy holder's and driver's no claims discount ("NCD"). It is the fact of a fault claim that will have an effect on the NCD and premium. So even had the claim been successfully negotiated to settle on a split liability basis, there would still have been an affect on NCD and premiums.

Mr W is dissatisfied with the overall service he received in the course of this matter, including the fact that UKI provided him with incorrect settlement details. UKI has acknowledged its mistake – saying that the second, higher figure it sent Mr W did not relate to his matter. While I appreciate Mr W has had the added concern of time and costs in pursuing this complaint, I am satisfied that UKI's offer of £100 for distress and inconvenience is fair and reasonable under the circumstances of the case.

my final decision

For the reasons above, it is my final decision that I partially uphold this complaint.

I require UK Insurance Limited to:

- pay Mr W £100 compensation for the distress and inconvenience he has experienced, and

- provide Mr W with a letter of apology, explaining why it sent out the wrong settlement information and confirming the final amount for which the third party claim was settled.

Helen Moya
ombudsman