

complaint

Mr S complains that Be Wiser Insurance Services Ltd advised him to go through a claims management company (CMC) following an accident rather than claim on his motor insurance policy. He said his insurer now won't deal with the claim.

background

Mr S was involved in an accident with another driver. He called Be Wiser that day and gave details. He said he wasn't at fault. He was then passed to a CMC to make a claim against the other driver. Mr S later found that the other driver wasn't insured and he couldn't recover his policy excess from the Motor Insurance Board (MIB) because he hadn't made a claim. Be Wiser said it was made clear to Mr S that he could make a claim through his insurer or go with the CMC and he chose the latter.

Our investigator recommended that the complaint should be upheld. He thought Be Wiser had given Mr S the two options. But he thought it was aware that the other driver may not be insured and it hadn't made Mr S aware of what would happen if he was uninsured. He thought this hadn't allowed Mr S to make an informed choice and he thought it likely that he wouldn't have made the same choice if he'd been better informed. He thought Be Wiser should pay Mr S £250 compensation for the trouble and upset this caused.

Be Wiser replied that it had referred Mr S to its claims handlers and any concerns about the CMC referral should be directed there. It asked for an ombudsman's review, so the complaint has come to me for a final decision.

my findings

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

When a consumer has been directed to a CMC rather than their insurer to deal with their claim, we look at the referral process. We look at the information the consumer was given and we also look at whether they would have acted differently if they'd been given the full facts.

Mr S emailed Be Wiser to say that he couldn't get through on the phone to report an accident. The next day, Be Wiser replied that it didn't deal with claims and it referred him to its claim handlers who would be in touch.

Mr S then made a call where his accident details were taken. I've listened to this call. Mr S's call was taken by the claims handler who said it worked on behalf of Be Wiser. Mr S described the accident circumstances. He described the other driver's car as old and rusty. He had the driver's details and he said that the driver had said he was insured.

The agent checked the details and said she couldn't find that the other driver was insured. She sought advice and then told Mr S that he might be insured through a company and this wasn't immediately apparent. The agent then explained that Mr S had two options. She said he could go through the CMC which would claim for the damage from the other insurer. Or he could claim on his policy through his insurer but he would have to pay his £3,000 policy excess. Mr S chose the latter to avoid paying his policy excess.

I think that from the phone call the agent was reasonably aware that the other driver was unlikely to be insured. I think she should then have explained to Mr S how this might affect his claim. When Mr S later complained to Be Wiser, it said that he should have been told to claim through his policy and then seek recovery of his policy excess through MIB. But this wasn't explained to Mr S at the time he spoke with the agent.

And so I think Mr S wasn't provided with sufficient information for him to make an informed choice about how to proceed. I think it's arguably likely that Mr S would have decided differently if he'd had better information. I think this caused him considerable trouble and upset as he found that MIB wouldn't refund his losses unless he made a claim through his insurance. And so I think Be Wiser should reasonably compensate him for this. The investigator recommended £250, and I think that's fair and reasonable as it's what I'd require in similar circumstances.

Be Wiser said it wasn't responsible for the advice the agent gave Mr S. But I don't agree. I think the claims handler was acting on behalf of Be Wiser and so it should be responsible for its actions.

my final decision

My final decision is that I uphold this complaint. I require Be Wiser Insurance Services Ltd to pay Mr S £250 compensation for the distress and inconvenience caused by its level of service.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 3 March 2020.

Phillip Berechree
ombudsman