

## **complaint**

Miss B complains about the way in which U K Insurance Limited (trading as Churchill) investigated the claim she made under her motor insurance policy when her car was damaged by debris falling from a lorry.

## **background**

Miss B says that on 3 August 2013, as she was driving along the motorway, a skip lorry shed debris causing damage to her car. She got in touch with Churchill but to date the claim remains unresolved. She first complained about the way in which the claim was being dealt with in September 2013. In its response of 3 October 2013, Churchill did accept that there had been some delay in handling her claim. It paid Miss B £20 for phone calls and £100 for the distress and inconvenience this caused. But the claim remained unresolved and on 3 March 2014 Miss B brought her complaint to us.

## **my provisional decision**

I issued a provisional decision in which I said:

- Under the terms of Miss B's policy, Churchill was entitled to decide whether to pursue a claim on her behalf, as long its decision was properly based on the evidence available;
- In addition to the initial delay prior to 3 October, Churchill hadn't done anything to progress the claim between 20 November 2013 and 31 January 2014 when it asked Miss B to obtain a copy of the police report;
- Churchill had failed to pass on photographic evidence to the third party insurer and had taken a request for evidence from the third party insurer as a denial of liability;
- Since 31 January 2014 Churchill had taken no further action to progress the claim;
- If Churchill took the view that the claim couldn't be pursued it should have informed Miss B of this by the end of November 2013, rather than asking her to continue to obtain information in support of her claim;
- The level of customer service Churchill provided to Miss B fell below an acceptable level;
- I was minded to ask Churchill to pay £300 in addition to the payment it had already made in October 2013.

Miss B accepted my findings but asked me to take into account the fact first that she had provided Churchill with the lorry's registration number at an early stage. Secondly that the third party had accepted that incidents of the type she was claiming for did happen from time to time.

Churchill said that it had responded to Miss B's complaint on 3 October 2013. It said that if Miss B wished to complain about the level of service she had received since then, this should be treated as a new complaint and so couldn't be considered by this service.

I reject that argument. Miss B's complaint relates to how her claim arising out of the incident on 3 August 2013 has been handled by Churchill. In deciding whether a claim has been dealt with appropriately we look to see what has happened more recently, not least because there may be situations where the concerns have been fully addressed and don't require any further intervention on our part.

In this case Churchill sent us its complete file covering the period from the time Miss B reported the incident in August 2013 to the date when she complained to this service in March 2014. In reaching my decision I have taken into account all the documentation available. I am satisfied that the issues

remain the same as when Miss B first complained: namely whether Churchill's has investigated the claim properly and kept Miss B fully informed of its progress.

### **my findings**

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

I have drawn on Churchill's contact notes and on Miss B's account of what happened in setting out the timeline below.

The incident occurred on 3 August 2013. Miss B's passenger took a photograph of the lorry which Miss B gave to the police. The vehicle had distinctive marks but the registration number wasn't visible.

On 7 August, Churchill assessed the chance of making a successful claim as "remote". This was on the basis that Miss B wasn't able to provide the registration number which would enable it to identify the third party.

On 15 August the police were able to decipher the registration number after enlarging the photograph. Miss B passed this information to Churchill. The police contacted the owner of the lorry. He acknowledged that five of his lorries were making a run along the motorway at the time the incident occurred. Miss B says the owner told her that similar incidents had happened before, but this would not in itself be sufficient to establish liability.

Around this time Churchill told Miss B that it was likely that the claim would be dealt with on the basis of split liability, although the facts of this incident would not normally give rise to a finding of shared fault between the drivers.

Miss B complained about Churchill's lack of action in pursuing her claim. On 1 October the complaint handler discovered that the third party insurer had written to Churchill on 2 September asking for details of the incident but no one had replied to this letter. Churchill paid Miss B £100 for the distress and inconvenience this lack of progress had caused. It was at this point that an accident form was sent to Miss B for the first time. She completed and returned the form.

On 11 November Miss B phoned for an update. She was told there wasn't sufficient evidence for the third party insurer to admit liability without details of the vehicle, although she had by this time given Churchill the registration number. Churchill forwarded the information about the incident to the third party insurer on 20 November. I find that this was an unacceptable delay on its part.

Miss B phoned for another update on 22 November.

The third party insurer wrote to Churchill on 25 November to say that the photograph of the lorry hadn't been attached to the accident form.

On 28 November the third party insurer again wrote to Churchill to say that no evidence had been provided in support of the claim. The third party insurer confirmed that its driver was at the scene but wasn't aware of any incident having occurred.

No reply to either letter from the third party insurer was sent. Nor does it appear that the photograph was resent.

No further activity is recorded on the file until 31 January 2014 when Miss B phoned for an update. She was asked to obtain a copy of the police report.

No further activity is recorded on the file after 31 January 2014.

I find that the level of customer service provided to Miss B fell below an acceptable standard because Churchill:

- Failed to reply to the letter from the third party insurer of 2 September 2013;
- Failed to ask Miss B to complete an accident form until October 2013;
- Failed to forward the completed accident form to the third party insurer until 20 November 2013;
- Failed to send the third party insurer the photograph of the vehicle which Miss B's passenger had taken. As the photograph identified the vehicle, it was potentially important evidence;
- Failed to reply to letters dated 25 November and 28 November from the third party insurer requesting further information and evidence about the incident or to forward the photograph of the lorry;
- Failed to take any action to progress the claim between 20 November 2013 and 31 January 2014. I consider that if Churchill took the view that the claim was unlikely to succeed, it should have reviewed the file and informed Miss B of its decision. She would then have been in a position to decide whether she wished to make a claim or pay for the repairs to her car herself;
- Asked Miss B to obtain the police report. The report was unlikely to assist as the police hadn't attended the scene. By asking Miss B to obtain it, Churchill gave the impression that the investigation was still live when, in reality, it had taken an early adverse view of the claim.

I accept that Miss B was initially informed that Churchill was pessimistic about the chance of the claim succeeding. Once she had provided the lorry's registration number and been asked to complete an accident form in October 2013, I find that she had a reasonable expectation that Churchill would actively investigate and pursue the claim on her behalf. I consider the fact that on 31 January 2014 Churchill was still asking Miss B to obtain a copy of the police report was unhelpful. It gave the impression that the investigation was continuing, when it was not.

I am satisfied that as a result of the continuing uncertainty about the claim; Miss B has suffered ongoing distress and inconvenience. I consider that a total award of £400 properly meets the needs of this case. As Churchill has already paid Miss B £100 it should now pay her an additional £300.

### **my final decision**

My decision is that I uphold the complaint. I require U K Insurance Limited (trading as Churchill) to pay Miss B £300 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss B to accept or reject my decision before 23 December 2014.

Melanie McDonald  
**ombudsman**