

complaint

Mr K complains about how Advantage Insurance Company Limited handled a claim made under his motor insurance policy involving a cyclist. He wants it to reinstate his no claims discount (NCD) and reimburse the extra premium and fees he has paid.

background

Mr K was involved in an incident with a cyclist. Advantage paid the cyclist's claim. But Mr K said that he was prepared to go to court to defend it. Advantage recorded it as a 'fault' claim but it didn't tell Mr K this. So Mr K lost four years NCD and was charged an additional £100 premium by his new insurer. He was also charged £50 to amend his policy as he didn't know about the fault claim when he took out the policy.

Advantage said its decision to accept liability for the cyclist's claim was correct. An independent accident investigator said Mr K would be found liable if the case went to court. Advantage agreed, however, that it should've told Mr K in writing that it was to settle the claim and when settlement had been made and the case closed. It, therefore, paid him £100 compensation for any trouble and upset caused.

Our adjudicator thought the complaint should be upheld in part. He thought Advantage was entitled to settle a claim on Mr K's behalf and it had investigated the claim sufficiently before making its decision. So he didn't think it was responsible for Mr K's increase in premiums.

He thought Advantage's payment of £100 compensation was reasonable. But Mr K had innocently non-disclosed information to his new insurer because Advantage didn't tell him it had registered the fault claim. He recommended that Advantage offer to pay Mr K a further £50 - a total of £150 - to cover the new insurer's admin charge to make this amendment.

Advantage agreed to do this. But Mr K said he couldn't accept the offer as he wasn't at fault.

my findings

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

I can see that this matter has caused Mr K stress and worry and it's affected his sleep. It's also cost him £150 for an increased premium and amendment fee. I can appreciate that he feels that he wasn't at fault. He says Advantage should have fought the claim. I can understand his upset that he only found out about the fault claim at renewal.

The adjudicator has explained that it isn't our role to decide who was responsible for causing the accident. This is the role of the courts. Instead, our role in complaints of this nature is simply to investigate how the insurer made the decision to settle the claim. Did it act fairly and reasonably and in line with the terms and conditions of the policy?

Advantage is entitled under the terms and conditions of its policy with Mr K to take over, defend, or settle a claim as it sees fit. Mr K has to follow its advice in connection with the settlement of a claim. This is whether he agrees with the outcome or not. This is a common term in motor insurance policies. Insurers are entitled to take a commercial decision about whether it is reasonable to contest a third party claim or better to compromise.

I can see from the file that Advantage considered the circumstances of the incident closely. There was no CCTV footage or independent witnesses. So it had to rely on the versions of events provided by Mr K and the cyclist's solicitors.

Advantage appointed an independent investigator to interview Mr K and to consider the likely outcome if the matter went to court. He thought that, based on the circumstances, Mr K would be found liable. A senior staff member then reviewed the claim and arrived at the same decision. Advantage then accepted liability in full.

Mr K has raised concerns about the cyclist riding on the pavement and being without lights. He said the cyclist wasn't taking due care. But I can see that Advantage considered these points in its decision and didn't think they made any difference to the likely outcome.

So I agree with the adjudicator that Advantage reasonably considered the evidence available before making its decision. It did this based on its experience of similar cases. I think it's entitled to do this. So I can't say its decision was unreasonable or that it should be changed. So I don't think Advantage needs to reinstate Mr K's NCD.

But Advantage has agreed that it should have told Mr K in writing about the decision and that the claim had been settled and closed. He could then have told his new insurer. It's agreed to pay Mr K £150 in total compensation for this. I think this is reasonable. It restores Mr K's position and it's in keeping with the level we'd award.

my final decision

My final decision is that I uphold this complaint in part. I require Advantage Insurance Company Limited to pay Mr K a total of £150 compensation for its poor communication about the outcome of the claim, as it's agreed to do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 8 April 2016.

Phillip Berechree
ombudsman