

## **complaint**

Mr H complains that a claim which arose in June 2008 under his motor insurance policy with Admiral Insurance Company Limited still remains open, and that Admiral's communication with him has been poor.

## **background**

I set out the circumstances leading to this complaint, and my provisional findings, in the provisional decision which I issued to Mr H and to Admiral on 10 June 2014. A copy of this provisional decision is attached below.

Mr H accepted my provisional decision. Admiral responded to say that it agreed to pay the interest I had recommended. However, it considered that the £200 compensation it had already paid to Mr H was more than fair and reasonable, and the total compensation, of £500 I had suggested was unreasonable in this instance.

## **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 noted the comments made by Admiral on the compensation figure I suggested. However, in the light of the failures by Admiral listed in my provisional decision, I remain of the view that £500 (inclusive of the £200 which Admiral has already paid) is the appropriate compensation figure in this case.

## **my final decision**

My final decision is that I uphold this complaint. I order Admiral Insurance Company Limited to pay Mr H:

1. interest on £800 at the yearly rate of 8% simple from the date it made the original payment of £3,200 (less uninsured excess and premium owed) until the date it paid the extra £800; and
2. compensation of £300, in addition to the £200 compensation it has already paid him.

If Admiral considers it has to deduct tax from the interest element of my award, it should send Mr H a tax deduction certificate when making payment, which he can use to reclaim the tax, if he is entitled to do so.

Lennox Towers  
**ombudsman**

## **PROVISIONAL DECISION**

### **complaint**

Mr H complains that a claim which arose in June 2008 under his motor insurance policy with Admiral Insurance Company Limited still remains open, and that Admiral's communication with him has been poor.

### **background**

In June 2008, Mr H was in collision with another car, and as a result his car was a total loss. Mr H considered the third party was entirely to blame, but the third party said Mr H was responsible. Admiral paid Mr H £3,400, less Mr H's uninsured excess and the premium he owed.

However, the claim remained open, and was treated as a fault claim in Mr H's insurance records, while Admiral and the third party insurers disputed liability. This meant Mr H continued to pay increased premiums on his motor insurance on each renewal.

Mr H suffered a personal injury in the accident. Included in his policy was legal expenses insurance with another company, X Insurer. So X Insurer instructed solicitors to claim against the third party and their insurers for Mr H's personal injury and his uninsured loss. Admiral also instructed X Insurer to recover what it had paid out, and X insurer instructed the solicitors to include this in their claim.

In January 2009, there were discussions between Mr H and Admiral about liability for the accident. Admiral proposed to suggest to the third party insurers that the third party be considered 80% at fault, and Mr H be considered 20% at fault. However, Mr H did not agree, and asked that Admiral make a final attempt to get the third party to accept 100% liability, but if that failed to try to get agreement on an 80/20 liability split.

After that, handling of the claim seems to have drifted. Mr H asked Admiral from time to time what was happening to his claim. Admiral said that liability was still disputed, and it was waiting to hear from the solicitors. Finally in April 2012 Mr H made a formal complaint to Admiral about the handling of the claim, and in particular that his personal injury claim had now become statute barred.

Admiral investigated his complaint. It acknowledged that there had been a lack of communication on his file, for which it apologised, and said it would now give him regular updates. It said liability was still in dispute. It also said that the correct value of his car at the time of the accident had been £4,200, not £3,400. It apologised for this oversight, and said it would now pay him the difference of £800, plus compensation of £200 for the poor handling of his claim.

Finally it said that the solicitors would deal separately with the aspects of the complaint that related to their conduct.

Unhappy with this response, Mr H complained to this service.

### **our initial conclusions**

Our adjudicator recommended that this complaint should be upheld. She said that the

solicitors had been appointed by X Insurer, not Admiral, to deal with Mr H's uninsured loss/personal injury claim. So she did not consider that Admiral was responsible for the solicitors' failure to progress those claims. She had arranged for a separate complaint to be set up against X Insurers in respect of those matters.

She considered that the £200 compensation Admiral had paid for its lack of communication and updates was reasonable.

However, she said that where, as here, X Insurer's cover was sold together with Admiral's policy, and packaged together as part of the Admiral cover, a misconception commonly arose that Admiral was responsible for the whole of the claim. In such circumstances, Admiral had a duty to explain to its policyholder at the outset what its role in the claim would be, and who was responsible for the rest of the claim.

Admiral had not done this. Indeed, in July 2009, it wrote to Mr H saying "*we have passed our file to our solicitors to deal with this matter further. They will be in touch with you shortly.*"

This suggested that it was Admiral who had instructed the solicitors. Also, in its final response letter to Mr H, Admiral said that the solicitors were dealing with their aspects of Mr H's complaint and would reply to him separately. This suggested that Admiral had a relationship with the solicitors, and had some control in order to make them respond.

She considered that Admiral should pay Mr H a further £150 as compensation for the distress and inconvenience it had caused him by failing to make clear the division of responsibilities for the different parts of his claim.

Admiral responded to say, in summary, that:

- X Insurer, not Admiral, was responsible for the recovery of uninsured losses and Mr H's personal injury claim;
- although legal cover was provided as a part of the policy, the policy terms and conditions and policy booklet clearly showed this as a separate policy;
- the letter of July 2009 did not name the solicitors it had appointed, and at no time had it told Mr H that it had appointed the solicitors dealing with his uninsured losses to act for Admiral;
- its final response letter did not suggest it had control over the solicitors. It merely relayed to Mr H what the solicitors had told it;
- during the claim registration call it would have told Mr H that X Insurers would deal with the recovery of his uninsured losses; and
- it did not consider any further compensation was due to Mr H.

### **my provisional findings**

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

First of all, I agree that it is more proper to consider how X Insurers and the solicitors dealt with Mr H's uninsured losses/personal injury claim in the complaint which has been set up for Mr H against X Insurers, so I will say no more about these matters.

In September 2012, Admiral acknowledged that in 2008, when it paid Mr H the value of his car, it had underpaid him by £800. Although it then made this good, it did not pay him interest to compensate him for this late payment. I consider that it should now pay him

interest on £800 at the yearly rate of 8% simple from the date it made the original payment of £3,200 (less uninsured excess and premium owed), until the date it paid the extra £800.

Like the adjudicator, I do not consider that Admiral explained clearly to Mr H the different responsibilities of Admiral and X Insurer, and how the solicitors fitted into the picture. I note that in its initial letter to Mr H in June 2008, Admiral says in relation to the excess on his policy that if he is not at fault, and liability is not disputed, *"you will be able to claim this back through our Legal Expenses unit as an uninsured loss."*

Admiral did appoint the same solicitors as X Insurer had appointed to act for Admiral/Mr H in recovering what Admiral had paid out. It sent them its file; it asked them to contact Mr H; and it asked Mr H to contact the solicitors and provide information they required.

Although I do not place any weight on Admiral's final response letter in this respect, I consider that its letters of June 2008 and July 2009, coupled with its actions and correspondence, meant that Admiral did not make it sufficiently clear to Mr H what part of the claim was its responsibility, what part was X Insurer's responsibility, and how the solicitors fitted into this picture. This caused Mr H additional distress and inconvenience, for which he should be compensated.

Finally, I consider that Admiral had a duty to Mr H to progress the aspect of the claim for which it was responsible, namely the recovery of its outlay, because it affected the increased premiums he had to pay following the accident while the claim remained open and shown as *"fault"* in his insurance record. I consider it failed Mr H because it allowed the claim to drift for a quite unacceptable length of time, causing Mr H further distress and inconvenience.

To summarise, Admiral:

- did not make clear to Mr H the part of his claim for which it was responsible, the part for which X Insurer was responsible, and the solicitors' role in each;
- did not properly deal with the part of the claim for which it was responsible, allowing it to drift for an unacceptable length of time;
- failed to communicate adequately with Mr H throughout; and
- paid him £800 less than it should have for the value of his car.

As compensation for the distress and inconvenience it has caused him over an extended period, I consider that Admiral should pay Mr H £500. It has already paid him £200, so it should now pay him a further £300. It should also pay him interest on the £800 as mentioned above.

### **my provisional decision**

For the reasons I have explained, but subject to any further comments or evidence I receive from either Mr H or from Admiral by 10 July 2014, my provisional decision is that I am minded to uphold this complaint. I intend to order Admiral Insurance Company Limited to pay Mr H:

1. interest on £800 at the yearly rate of 8% simple from the date it made the original payment of £3,200 (less uninsured excess and premium owed) until the date it paid the extra £800; and
2. compensation of £300, in addition to the £200 compensation it has already paid him.

If Admiral considers it has to deduct tax from the interest element of my award, it should send Mr H a tax deduction certificate when making payment, which he can use to reclaim the tax, if he is entitled to do so.

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