

complaint

Mr K has complained about the way International Insurance Company of Hannover SE dealt with a claim it received from a third party under his motor policy.

background

Mr K's car was reported as being involved in an accident. The other driver and passenger reported the accident to the police and gave a description and registration that matched Mr K's car. The third parties said that they did this because the driver was abusive to them and refused to give his details to them.

Hannover and its claims handlers investigated the claim. For the purposes of my decision I've referred to Hannover's claims handler as Hannover. Mr K told Hannover from the beginning that he wasn't involved in the accident - so Hannover arranged for an engineer to inspect Mr K's car. The engineer reported that there was no evidence of accident related damage or any repairs to the area of Mr K's car since the alleged accident.

However because Hannover took almost six months to have Mr K's car inspected, its legal representative advised it to still settle the other driver's claim. They thought that if the matter went to court, its delay in obtaining the engineer's report would reduce its chances of succeeding. So Hannover settled the third parties' claim.

Hannover didn't tell Mr K that it had made this decision and the first time he was aware of it was when Hannover wrote to him over two years after the accident requesting he pay his excess under the policy which was £3,000. Mr K was very upset about this so he complained to Hannover.

Hannover said that it should have inspected Mr K's car earlier in the investigation and it should have told him about its decision to settle the third parties' claim. It apologised to Mr K and said that it would waive the £3,000 excess, remove the record of the accident as being Mr K's fault from the Central Underwriting Exchange (CUE) and offered him £300 compensation for the trouble and upset it caused him.

Mr K didn't accept this. He remained concerned about the way it investigated the claim and he thought it had breached the Data Protection Act by sharing his information with other parties. He said that its letter telling him he had to pay the excess and the way Hannover communicated with him had caused him a great deal of stress and sleepless nights.

Hannover said that it hadn't breached the Data Protection Act but had instructed its claims handler and obtained legal advice as part of its investigation which was necessary. It agreed that it didn't handle Mr K's claim as it should have and it increased its compensation to him from £300 to £600 in recognition of the upset it caused him.

Mr K remained unhappy so he brought his complaint to us. The adjudicator who investigated it didn't recommend that it should be upheld because he felt that Hannover had dealt with Mr K's complaint in a fair and reasonable way.

Mr K didn't agree. He wants us to give him proof that Hannover was compliant with the Financial Conduct Authority (FCA) in its investigation. He wants us to explain why a regulated company such as Hannover can breach the FCA's timescales. He doesn't think we have properly investigated his concerns.

So the matter has been referred to me to decide.

my findings

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

It's clear that Mr K is very upset about the way in which Hannover dealt with the third parties' claim under his policy. Mr K denied from the beginning that he was ever involved in the accident and the engineer's inspection of his car supported his account. He feels that Hannover as his insurer should have properly investigated the claim to support his account and if it had done so earlier, it may not have had to settle the third parties' claim. I understand that Mr K feels strongly about the way Hannover dealt with the claim and the impact its actions have had on him.

Hannover agrees that because it took too long to arrange for Mr K's car to be inspected to support his account, it impacted on its decision to settle the third parties' claim. Its legal representative also considered what the third party said and how much weight both parties' accounts would have if the matter went to court. Hannover balanced the information it had from Mr K with the information it had from the third party. The third party had reported the accident to the police immediately after she and her passenger said it happened and gave full details matching the description of Mr K's car. Although Mr K lived 40 miles away, he was in the city that day. Mr K is unhappy that he had to allow an engineer access to his private property. However I don't think it was unreasonable for Hannover to investigate Mr K's account further by arranging an inspection of his car given what the third party said – but the length of time it took to do this was unreasonable.

Under the terms of Mr K's policy Hannover has the right to take over the defence or settlement of any claim. And it can make its own decision about whether it's reasonable to contest a third party's claim or better to settle it. This might mean that Hannover makes a decision Mr K doesn't agree with, but the policy allows it to do this. This is a common term in all motor insurance policies and I don't find it unusual. So I think Hannover's reasons for deciding to settle the third parties' claim were reasonable.

Mr K says that Hannover was rude and unprofessional towards him in the way it communicated with him. I've seen email exchanges which show that Hannover didn't agree with Mr K's view that it had failed to reply to his requests for information. Overall I haven't seen anything to show that Hannover was rude or unprofessional to Mr K.

Sometimes businesses make mistakes. In this case Hannover accepted that it got things wrong. It should have told Mr K that it had agreed to settle the third parties' claim so that Mr K could have understood its reasons for doing so. But instead he found out when it wrote to him requesting the excess of £3,000 two years later which no doubt came as a huge shock to him. However I think what it did to put things right was fair and reasonable to him. It apologised for its mistake and paid him £600 to compensate him for the upset it caused him. It hasn't charged him its excess payment and it updated the CUE to show the background to the claim.

Our role isn't to punish a business - and we are not a regulator. For Hannover, its regulator is the FCA. In this case, I think that Hannover's actions to resolve Mr K's complaint were proportionate and reasonable as he has been put back in a position he would have been had it decided not to settle the third parties' claim. And I think its compensation of £600 is very fair for the period of time and the level of inconvenience and upset it caused Mr K by its actions. So I don't think Hannover needs to do anything more.

my final decision

For the reasons given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 14 March 2016.

Geraldine Newbold
ombudsman