

complaint

Mr T has complained that the terms and conditions of his motor policy are unfair. His son, a named driver had an accident under the influence of alcohol and Admiral Insurance Company Limited has said his son is now liable to repay it for the costs of the third party's claim.

background

The adjudicator upheld the complaint in part. Whilst he agreed that Admiral was entitled to recover its costs from the named driver, he did not believe that Mr T the policyholder should be adversely affected by the settlement of the claims made against the named driver.

Admiral disagreed advising that whilst it would amend the databases to reflect that the named driver was driving the vehicle at the time of the incident, Mr T would remain listed as the policyholder. It also advised that it would only reinstate Mr T's no claims discount (NCD) once the costs it incurred in settling the claims was recovered in full.

my findings

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

Mr T's policy contains the following clause.

'If an accident happens whilst you or any person entitled to drive under Section 5 of your current Certificate of Motor Insurance is convicted of an offence involving drink or drugs, or was driving under the influence of drink or drugs, no cover under the policy will be provided and instead, our liability will be restricted to meeting our obligations as required by the Road Traffic Act. In those circumstances we reserve the right to recover from you or the driver, all sums paid (including legal costs), whether in settlement or under a Judgement, of any claim arising from the accident.'

Therefore it is clear that Mr T's insurance policy excluded losses sustained where the driver of the insured vehicle was under the influence of alcohol. I am therefore satisfied that Admiral has settled the claims made against the named driver, only to comply with its obligations under the Road Traffic Act. Therefore, no "claim" has occurred on the policy as the policy excludes any such claim in these circumstances and Mr T should not have his insurance policy and record marked as if a claim had been made. This includes the issue that Admiral has yet to recover its costs from the named driver but has marked Mr T's NCD accordingly. As Admiral was provided with the appropriate indemnity from the named driver, it has the right of recovery against him but its success or otherwise should not affect the policyholder, Mr T or indeed his NCD, as the costs incurred by Admiral were not costs incurred under the policy, but costs incurred under its liability as detailed in the Road Traffic Act.

Mr T has complained that in any event the drink and drugs exclusion in the policy is not fair, as the potential liability of such a consumer is not articulated and communicated correctly at the time the policy is taken out. Furthermore the fact that the policy wording merely 'reserves' the right to recover any such costs, he believes may induce a consumer that this

is unlikely to happen. I sympathise with Mr T's argument but I do not agree. It is fair and reasonable that Admiral can exclude claims when the driver is under the influence of drink or drugs and it is reasonable that there are considerable consequences for that to include the recovery of any costs which Admiral paid under its duty in the Road Traffic Act. Furthermore I also find that it is not a significant term and was in any event appropriately highlighted in the policy summary

my final decision

For the reasons above it is my final decision that I uphold this complaint in part and I require Admiral Insurance Company Limited to do the following:

- Remove the claim from Mr T's internal and external insurance records to include all databases as it is not a claim on Mr T's policy;
- Recalculate Mr T's NCD as if the record of the claim had not occurred;
- I also require it to take whatever steps are necessary to ensure that Mr T is compensated for any additional insurance premiums or administrations costs he has incurred as a direct result of Admiral's handling of this matter by wrongly noting its outlay as a claim on his policy.

I make no other order against Admiral.

Rona Doyle
ombudsman