

complaint

Ms B complains about the way in which Admiral Insurance Company Limited handled two claims under her son's (Mr B) motor insurance policy.

background

Ms B is a named driver under Mr B's policy and has dealt with this matter on his behalf both with Admiral and this service.

Mr B crashed into a parked car in November 2013. Police attended the scene and arrested Mr B for drink driving. Under the terms of his motor insurance policy, Admiral was entitled to void the policy and recover the full cost of any third party claim it paid out from Mr B. Mr B signed an agreement for Admiral to deal with any claim on his behalf.

A second person tried to make a claim for damage to her car that she said Mr B had caused. Admiral told Mr B it would have to accept the claim because of his drink driving. This was despite the fact that Mr B said he was sure he'd only hit one vehicle.

Ms B complained that she and Mr B hadn't been kept updated. She asked Admiral to give her copies of the documents relating to the value of the claim, such as invoices and the engineer's report. But Admiral has refused to hand these over to her because it said this would breach data protection law.

Admiral agreed that it hadn't kept Ms B updated and offered Mr B £100 in compensation. It refused to disclose the documents Ms B had requested.

my provisional decision

I issued a provisional decision in which I said I was minded to uphold the complaint. I thought there were good reasons for Admiral to give Ms B copies of the documents relating to the third party claim. I was satisfied that the third party could be protected by redacting (blanking out) any personal information from the documents.

I also considered Admiral should pay for the cost of obtaining the engineer's report. Finally I thought that the appropriate award for the distress and inconvenience that Admiral's handling of this matter had caused should be increased to £300.

Admiral didn't agree that it should give Ms B redacted copies of the documents relating to the third party claim. I asked it to identify any legal reason why it couldn't comply with a direction to disclose these documents. In particular I asked it to consider section 35 of the Data Protection Act 1998 which says that personal data may be disclosed where a legal right is being exercised or enforced. In this case Admiral wants to enforce its legal right to recover the third party's costs from Mr B. So I asked it to reconsider its stance that data protection law prevented it from complying with Ms B's request.

Admiral says that section 35 doesn't put it under any obligation to disclose the information Ms B has requested. I agree. What section 35 does do is to allow Admiral to disclose information which it otherwise wouldn't be able to. Although I have given careful consideration to the ongoing objection Admiral has to letting Ms B see the documentation in support of the third party claim, I remain of the view that the complaint should be upheld for the reasons set out below.

my findings

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

Shortly after the accident the police officer dealing with Mr B's case sent him an email with full details of the third party's name, address and vehicle.

Ms B emailed Admiral on 17 January, 13 February, 4 March and 13 May 2014 trying to find out what was going on.

In July 2014 Admiral finally gave Ms B a breakdown of the costs the third party was claiming. Admiral said that the repairs had taken longer than usual to complete although it didn't explain why.

In December 2014 Admiral wrote to Mr B to say that the third party claim had been settled for £5,486.13. It provided a breakdown of the various parts of the claim but still refused to give Ms B copies of supporting documents such as the engineer's report or repairs invoice. It said that, even if it agreed to black out the personal information relating to the third party, it could still be revealed by mistake.

Mr B has signed an agreement to repay the costs of the third party claim, but Admiral still has to act in his best interests. I think it's unfair that Admiral won't give Mr B evidence of the costs that it has accepted on his behalf. Without that evidence he can't check that the amount he is being asked to pay is reasonable.

Admiral can take steps to delete any personal information about the third party. I am satisfied that asking Admiral to provide this information is fair and reasonable because:

- Should Admiral issue court proceedings to recover the money, it would have to disclose all the information it holds about the claim and the third party, without anything being deleted;
- As it happens Mr B already knows the name and address of the third party as this was given to him by the police;
- Section 35 of the Data Protection Act 1998 allows the disclosure of personal data where the disclosing party is seeking to enforce a legal right, as Admiral would be doing in this case;
- Since Admiral can easily protect personal information and appreciates the importance of doing so, it is very unlikely to make a mistake
- As Admiral has paid out an amount that it wants Mr B to pay, it can only be fair that Mr B sees the full basis upon which Admiral calculated the amount.

As Admiral said it was going to accept a second claim without any investigation, I think Ms B was entitled to challenge Admiral. She got an engineer's report which said the damage to Mr B's car was in keeping with hitting one car only. As a result the second claim wasn't pursued. I think this shows how unreasonable it was for Admiral to say it had to accept the second claim. Had Ms B not taken the action she did, Mr B's costs could have been even higher than they are. If anything, this reinforces the need for Mr and Ms B to see the supporting documents for the main claim.

Admiral accepts it didn't keep Mr B updated about the claim. It took Admiral more than six months to give any meaningful information to Mr and Ms B. Admiral hasn't given any real reason for this delay. Taking all this into account, I have concluded that Admiral should pay Mr B £300, in addition to the £100 it has already offered to compensate him for the trouble and upset caused by poor communication. I consider an award of £400 properly reflects the difficulty and delay caused to Ms and Mr B in dealing with this matter. It covers both Admiral's initial failure to provide any information about what was happening with the third party claim, and the ongoing delay in providing copies of documents which I find Ms B reasonably requested.

Mr B's drink driving has been punished by the criminal prosecution and the effect this will continue to have on his ability to obtain any or affordable car insurance. The third party, who fortunately suffered no injury, has been compensated for any financial loss. The correspondence that I have seen both from the police and Ms B indicate that Mr B accepted from an early stage the serious nature of his offence. Apart from the second bogus claim, neither Mr B, nor his mother, have ever disputed that he must repay Admiral the third party costs. I consider that Admiral's ongoing refusal to accept the reasonable nature of the request for evidence to justify the sums it paid to the third party has added significantly to the trouble and upset both Mr and Ms B have suffered.

Ms B has asked us to ensure that the same claims handler continues to deal with the matter on behalf of Admiral. That isn't really something this service can do. There would be obvious advantages in making sure that the same person continues to deal with the case, especially if it's someone Ms and Mr B have a good working relationship with. It's obviously in both Admiral's and Mr B's interests to sort this out as soon as possible, so I would hope that Admiral will agree to that request and/or make sure that whoever is dealing with the claim keeps in regular touch with Mr and Ms B.

my final decision

For the reasons set out above I uphold the complaint. I require Admiral Insurance Company Limited to give Mr and/or Ms B copies of the following documents, with any personal data relating to the third party redacted:

- Recovery invoices;
- Repair invoices;
- Engineer's report (including any colour photographs of the third party vehicle);
- Credit-hire agreement.

In addition Admiral Insurance Company Limited must pay:

- £300 in addition to the £100 it has already offered to compensate Ms and Mr B for distress and inconvenience;
- The cost of the independent engineer's report Ms B obtained with simple interest of 8% a year from the date she paid for the report until the date of settlement.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms B and Mr B to accept or reject my decision before 21 May 2015.

Melanie McDonald
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