

## **complaint**

Miss E complains that Sabre Insurance Company Limited (Sabre) is asking her to repay it what it had spent on defending a third party motor insurance claim.

## **background**

In August 2015 Miss E, a named driver on the policy, was involved in an incident with another car. The police attended the scene and she was arrested for, and later found guilty of, drink driving. This meant that her car insurance didn't provide cover and Sabre went onto try and recover its costs from Miss E.

Miss E says that Sabre said it wouldn't have anything to do with her case but then it appointed a legal team to defend her case. She's unhappy that Sabre has included these costs in the total amount she's been asked to pay. She also says that Sabre encouraged the TPS to up its costs and that it should've made her aware about these much sooner than it did.

Our adjudicator reviewed Miss E's complaint. After reviewing the terms of the policy she said if an accident occurred whilst drink-driving Sabre had the right to recover any sum from Miss E, it had paid to the TP. She was satisfied Sabre made Miss E aware early on that it wouldn't defend her if any third party claim was made. She also thought it was in Sabre's best interest to mitigate the claim costs and so it wouldn't ask the TPS to increase them. Our adjudicator also considered the lack of communication from Sabre but said it wasn't required to regularly update Miss E as it hadn't indemnified her and that Sabre is allowed to settle a claim as it sees fit.

As Miss E didn't agree, so the complaint has been passed to consider.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I agree with the adjudicator for broadly the same reasons.

Section C1 of the policy explains the following:

*This Policy does not provide cover for any loss, damage, accident occurring whilst your vehicle is being:*

*(d) driven by you or anyone authorised by you to drive your vehicle, should it be proved to the satisfaction of the insurer that the driver was driving under the influence of drink or drugs. A conviction under the relevant law...shall be deemed to be conclusive evidence of the condition of the driver at the time and the date of the occurrence giving rise to the conviction.*

So as Miss E was convicted of driving under the influence of alcohol, Sabre wouldn't provide cover for her. But, as our adjudicator has already explained, it was legally liable to deal with the third party claim under the Road Traffic Act.

Furthermore, Miss E's policy expressly allows for recovering this *legal* liability from her under section D7:

*If the insurer is required to pay a claim under Road Traffic Law or the law of any country in which this policy operates (including settling such a claim on a reasonable basis in anticipation of such a liability), which the Insurer would not otherwise be liable to pay had the law not existed, the Insurer shall be entitled to recover such payments (including the legal costs of reasonably defending the claim) they make from you if you:*

- (a) Caused the loss directly or indirectly;*
- (b) Caused or permitted the vehicle to be driven by an uninsured driver;*
- (c) Through act or omission, caused this insurance to be invalid*

With the above in mind, I'm satisfied it's reasonable and lawful for Sabre to recoup its outlay, including legal costs. I say this as Miss E has breached the above condition and, as such, has caused Sabre to incur liabilities towards the third party.

Whilst I appreciate that the sum Sabre is asking Miss E to pay is significant and is likely to cause her real difficulty, Sabre has provided a detailed breakdown of how the figure has been calculated and I've seen nothing to suggest that Sabre encouraged the TPS to increase its costs in any way. And the claims put forward by the TPS have been supported by evidence, as was the bill for legal costs that Sabre has had to pay.

I've also considered whether Sabre should've kept Miss E updated but more importantly whether it had a duty to do so. I do agree with the adjudicator that it would have been helpful for Sabre to have kept Miss E updated but because Sabre had notified Miss E that it wouldn't be indemnifying her it no longer had a duty to keep her updated.

If Miss E is unable to make the payment I would encourage her to contact Sabre and discuss payment options.

### **my final decision**

My final decision is I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 1 July 2018.

Jade Rowe  
**ombudsman**