

The complaint

Mr H is unhappy with the way MCE Insurance Company Limited handled a claim from a third party representative (TPR) under his motorcycle insurance policy.

What happened

MCE received a claim from a TPR in December 2018 about an alleged incident involving Mr H's motorbike in November 2018.

In December 2018 MCE contacted Mr H who provided evidence that he was out of the country on holiday at the time of the incident. So he said his motorbike wasn't involved in the incident. Mr H was unhappy about the claim and chased MCE for updates. He wanted MCE to remove the claim.

MCE told the TPR that liability was denied and asked them for evidence to support their claim. As it didn't hear from the TPR, it closed its file, but as MCE had been notified of a claim, it said the claim had been correctly recorded in line with industry practice.

Mr H was very unhappy about MCE's decision not to close the claim against his policy and in 2020 he complained. He felt MCE hadn't acted in his best interests and hadn't done enough as his motorbike wasn't involved in the incident. Mr H was unhappy with MCE's lack of updates and failure to respond to his complaint.

In June 2020 MCE replied to Mr H's complaint and accepted that he had to chase it for updates and it had failed to record his complaint. For its poor service it paid Mr H £150 compensation.

MCE said it had acted correctly when recording the claim once the TPR had contacted it. While it denied the allegations on Mr H's behalf, as a claim had been made against the policy, MCE had a duty to make a record of it.

Mr H remained unhappy and asked us to look at his complaint.

Meanwhile, in October 2020 the TPR contacted MCE again to continue to dispute liability. MCE replied to say it would defend legal proceedings against it. It reiterated that the TPR had provided no evidence to support their allegations since December 2018 and that Mr H was out of the country at the time of the incident.

The TPR provided a medical report from their customer and continued to dispute liability. MCE replied to the TPR in November 2020 and reiterated that they'd failed to provide any evidence of Mr H's involvement in the incident – and they had failed to provide any details of the driver involved. MCE invited the TPR to withdraw their claim.

MCE didn't hear from the TPR and so after six months, closed its file again and marked the claim as 'withdrawn'.

Our investigator explained that he thought MCE had dealt with the claim reasonably and he thought the compensation it had paid for its poor service was fair.

Mr H didn't agree. In summary he feels MCE should have made enquiries to establish if there was a case of mistaken identity or possible fraud. He believes MCE failed to comply with GDPR legislation and should have contacted the police and has a role to help combat insurance fraud. He said MCE failed to respond to his requests for updates on his complaint and failed to properly handle the claim.

So as Mr H didn't agree, the case has been passed to me to decide.

What I've decided – and why

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

Where an insurer receives a claim from a TPR and liability – or in this case – identity and liability is in dispute, we'd expect an insurer to ask for suitable evidence from all parties involved as part of its investigation.

I understand Mr H's frustration and feeling that MCE didn't do enough to investigate the possibility that the TPR had made an error with the number plate - or that his number plate might have been cloned. However, it's for a TPR to prove their claim. And as MCE invited them to do so and they failed to reply, MCE correctly closed the claim. But in line with industry practice as a claim was made, MCE correctly made a record of this.

Although MCE closed the claim, as the TPR continued to dispute liability when it made contact again in October 2020, MCE was obliged to respond. I can see that MCE continued to defend Mr H's position. So I think MCE acted reasonably and in line with the policy.

I can only consider the actions of MCE as Mr H's insurer – and not the actions of the TPR. However, it's the responsibility of the party making a claim to check the information they hold is correct in order to support the allegations they make.

MCE replied to the TPR in October and November 2020 and reiterated that they'd provided no evidence of Mr H's involvement in the incident – and they'd failed to provide any details of the driver involved. MCE invited the TPR to withdraw their claim. MCE didn't hear from the TPR and so after six months, closed its file again and marked the claim as 'withdrawn'. I haven't found anything to suggest MCE is responsible for any breach in data protection rules. It asked the TPR to provide further information to support its allegation that Mr H's motorbike was involved – which they failed to do.

I understand Mr H's strength of feeling about the way the claim was handled. And I know he's made his own enquiries with the TPR which has led to the possibility that they had recorded the wrong registration details. But I don't think it was unreasonable for MCE not to regularly contact the TPR to chase them for evidence to support their claim. MCE made them aware that Mr H was out of the country at the time of the incident. It's in the interests of the TPR to prove their allegations, which they failed to do.

I think MCE provided a poor service to Mr H in failing to keep him updated on the claim and respond to his queries – and complaint – within a reasonable period of time. I don't think the outcome to the claim would have been different, but I think MCE caused Mr H unnecessary distress and inconvenience here. And I think this poor service contributed to Mr H's lack of confidence in MCE that it was dealing with the claim in a fair way.

So I think MCE should have put things right – and I think the compensation MCE paid Mr H of £150 is fair and in line with awards which we give for similar circumstances to reflect the inconvenience caused by having to chase MCE.

My final decision

For the reasons I've 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 H to accept or reject my decision before 8 June 2021.

Geraldine Newbold
Ombudsman