

The complaint

Mr B complains about Covea Insurance plc's ("Covea") liability decision following a claim against his car insurance policy.

What happened

Mr B says Covea made him aware of a claim being made against his policy by a third-party driver. Mr B says there was no collision. He says there was an occasion when a third party claimed Mr B's car had scratched their car, but Mr B's garage confirmed Mr B's car hadn't been involved in any accident. Covea then settled the claim based on a 50/50 split in liability, but Mr B complained as he felt Covea had dealt with a fraudulent claim which was now unfairly recorded against his policy.

Covea responded and explained their investigation showed there was an incident and, although Mr B says there was no damage to his car, a third party had decided to pursue a claim. Covea said, as there was an incident, they have a duty to record it on the relevant databases. Covea said, while they understand Mr B's position, they'd appointed an Arbitrator and their position in the matter was to settle the claim on a 50/50 split liability basis. They said they wouldn't look to challenge the split liability decision as they don't have any conclusive evidence to support either party's version of events.

Our investigator looked into things for Mr B. She thought Covea hadn't acted unfairly in relation to their liability decision. Mr B disagreed so the matter has come to me for a decision.

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.

Having done so, I've decided not to uphold the complaint. I understand Mr B will be disappointed by this but I'll explain why I have made this decision.

My role requires me to say how a complaint should be settled quickly and with minimal formality and so I'll focus on what I consider to be the crux of the complaint and the main areas of dispute. The key dispute here relates to Covea's decision on liability and to hold Mr B partly responsible for the accident.

My starting point is Mr B's policy booklet. This sets out the terms and conditions and explains that Covea can take over and conduct the defence and settlement of any claim in Mr B's name.

When an accident occurs, it's the insurer who'll decide how the claim should be settled - this includes determining which party was at fault. An insurer might choose to accept liability, propose or agree to split liability, or choose to defend any allegation of liability. While this decision rests with an insurer, and it's not the role of our service to decide who is at fault for an accident, we can look to see whether an insurer has handled the claim in a fair and

reasonable manner. So, although the terms and conditions allow Covea to decide liability in the claim made against Mr B, I've looked into how and why Covea reached their decision and the evidence and arguments they considered before making a decision.

The information shows Mr B called Covea and explained he'd received a claim form although he hadn't made a claim. The call handler explained they'd received notification from a third party of an incident involving Mr B's car. The call handler explained the third party's version of events is that Mr B was overtaking him and, in doing so, hit the side of his car. Mr B then gave his own version of events holding the third party responsible. Mr B also confirmed there were no witnesses.

Following the call Mr B emailed Covea a few days later and explained the third party tried to undertake him. He said the third party was on his mobile phone and didn't realise he was in a bus lane and then, while still on his phone, he braked and tried to manoeuvre back into the correct lane and, in doing so, the rim of his driver's side front wheel caught the rear passengers side door panel of Mr B's car. Mr B said no damage was done and he only noticed some dirt from his tyre. Mr B said he noticed that there was existing damage to the third party's car.

Taking this all into account, I can't say Covea have acted unfairly in recording an incident here. Mr B's own version of events, in both the phone call and email which followed, demonstrates an incident occurred. In addition to this, there's consistency in Mr B's and the third party's version of events around the date of the incident, the cars involved and the location. So, I don't believe there's any doubt an incident occurred.

Turning now to the liability decision. Given the conflicting version of events, and there being no independent evidence, Covea instructed an Arbitrator to provide an opinion. I can see the Arbitrator took into account Mr B's version of events and also the third party's account. The third party said Mr B was behind him and attempted to overtake him but then manoeuvred in at the point two lanes merge into one but misjudged the amount of space and ended up hitting the third party's car. The Arbitrator's report makes reference to the third-party providing photos of the accident location. The report notes that the Arbitrator doesn't have any evidence to prove either parties account of events and both appear equally credible. The Arbitrator then finds that both drivers should be held equally responsible for the incident and the claim settled on a 50/50 liability basis.

I can't say Covea have acted unfairly here in following the Arbitrator's opinion. I haven't seen any information which suggests Covea ignored any material information or that they didn't make any further reasonable enquiries. The information shows there wasn't any independent evidence available such as an independent witness or dashcam footage. It therefore came down to Mr B's word against the third party's word. And given all of the information available, which includes both parties' version of events and the photos, I don't think it was unreasonable for Covea to take the view that a 50/50 liability split is reasonable in the circumstances.

I understand Mr B maintains there was no collision, and he took his car to the garage and was informed there was no damage to his car. Mr B has also provided photos which he says show no damage to his car or the third party's car. I'm not doubting Mr B's account in relation to what the garage told him but in Mr B's email to Covea he does say, "*...the rim of his driver's side front wheel caught the rear passenger's side door panel no damage was done just some dirt from his tyre.*" This suggests there was some form of impact. I've also considered the photos provided by Mr B and this does show a mark on his car around the area Mr B describes in his email. I can see Mr B has also provided a photo of the third party's car, but it's not clear from this photo whether there is damage. But, taking into account all the information I have seen, I'm persuaded there was a collision.

I do acknowledge the incident circumstances have been upsetting and frustrating for Mr B, and I can see he has strong feelings about who's responsible for the incident. But, my role here is to decide whether Covea have acted fairly and reasonably when reaching a decision on liability – and for the reasons I've mentioned, I think they have. I wish to reassure Mr B I've read and considered everything he has sent in, but if I haven't mentioned a particular point or piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel I need to reference it to explain my decision. This isn't intended as a discourtesy and is a reflection of the informal nature of our service.

My final decision

For the reasons I have given, it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 20 March 2024.

Paviter Dhaddy
Ombudsman