

The complaint

Mr C complains that Wakam settled a claim a third party made against his taxi insurance policy.

What happened

Mr C had a taxi insurance policy underwritten by Wakam. In July 2019, Mr C says he was waiting behind a third-party vehicle and it rolled back into his car. He says there was no damage to either vehicle so both parties went their separate ways.

However, the third party, via representatives, later made a claim against Mr C's insurance for both vehicle damage repairs, and a personal injury.

The claim was ongoing from 2019 until September 2023 when Wakam settled the third-party claim. The personal injury claim had been dropped, but the repairs claim was settled.

Mr C is unhappy Wakam settled the third-party claim and that this has impacted his insurance policies. He's challenged the third-party version of events, and damage claimed for, and he wanted Wakam to pursue matters in court.

As Mr C remains unhappy that Wakam settled the claim, he approached the Financial Ombudsman Service.

One of our investigators looked into things but she didn't uphold the complaint. Whilst she noted the claim had been protracted in length, she said this was outside Wakam's control as 'defendants' in the claim. She also said that she didn't think Wakam had reached an unreasonable decision to settle the claim, and the policy terms allowed them to decide this.

Mr C didn't agree and asked for a final decision from an ombudsman.

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.

Whilst I appreciate it'll come as a disappointment to Mr C, I've reached the same overall outcome as our investigator.

I do recognise the claim took a considerable amount of time, from 2019 to 2023. However, because the claim was being made against Mr C and his insurance policy with Wakam, he and Wakam were the 'defendants'. Therefore, Wakam needed to respond to allegations, settlement requests and legal proceedings initiated by the third party and weren't in a position to initiate legal proceedings or move things forward themselves.

It wasn't until early 2023 that legal proceedings were then initiated by the third party. But between 2019 and 2023 Wakam responded to the third-party allegations and communication when received. So, whilst it took a considerable amount of time to get to the legal proceedings (and settlement) stage, I can't hold Wakam responsible for the time taken for that.

There was a conflicting version of what happened from each of the parties. Mr C says the third-party rolled back and hit him, but the third party says Mr C went into the back of them. But there were no independent witnesses of the event.

My role isn't to decide who is responsible for liability on a claim, only the courts can do this. Instead, my role is to consider if Wakam reached a reasonable conclusion to settle the claim based on all the information and evidence available to them.

Wakam considered the information provided and sought guidance from experts on the likely outcome if it went to court. And based on all the information, Wakam took the decision to settle the claim. I don't think they reached an unreasonable conclusion to do so.

Wakam took into account that the third-party vehicle was automatic, and the specification it had, and that the third-party had argued it wasn't possible for the third-party vehicle to have been able to roll back. Mr C disputes this based on his own research of the third-party vehicle and its features. He's asked this service to examine the manufacturer claims and whether the features do in fact work as advertised and sold by them.

Mr C has also said that the fact the personal injury claim was dropped shows the claim was fraudulent, and he's asked this service to investigate why it was dropped. Mr C has also said he wants this service to investigate whether the third party has made previous claims for damage or medical issues and to investigate their relationships with other parties.

However, it's not for me to prove or disprove whether the third-party vehicle could, or did, roll back, or whether the manufacturer specification claims are true or not. And it's not for me to interrogate the third party on their initial personal injury claim, previous claims, or relationships with others. Instead, my role is to consider whether Wakam made a reasonable decision to settle the claim based on all the information they had, and overall, I think they did.

Mr C has also challenged the repair costs, however these were considered by Wakam, and they were satisfied they were reasonable costs being claimed for the incident. And what was being claimed for was taken into account as part of Wakam's overall decision to settle the claim.

As outlined above, it's not for me to determine who is responsible for the incident, or to cross examine the different parties, only a court can do that. My role is to decide whether Wakam reached a reasonable decision overall to settle the claim, and they took into account all the available evidence, and expert advice, before reaching that decision. And I don't think the overall decision they reached was unfair.

Whilst Mr C says the case should go to court, and Wakam shouldn't have made the decision to settle the claim, the policy terms explain its Wakam's decision whether to defend or settle any claim made:

"We are entitled to take over and conduct in your name (or any named person, as per your policy schedule) the defence of any claim or to prosecute in your name (or named persons). This includes the defence or settlement of any claim for indemnity, damages or otherwise, and we shall have full discretion in the conduct of any proceedings or in the settlement of any claim."

The insurer being able to decide whether to settle or defend a claim isn't unusual in motor insurance policies, and as outlined, I don't think Wakam reached an unreasonable decision to settle the third-party claim based on all the information provided.

My final decision

It's my final decision that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 March 2024.

Callum Milne
Ombudsman