

The complaint

Mrs R complains about how Acromas Insurance Company Limited ('AICL') dealt with liability under their motor insurance policy for a third party claim.

Mrs R's policy was sold and is administered by a third party company on AICL's behalf, and all correspondence has been with this company. However, AICL is the policy underwriter so the complaint is against AICL. Any reference to AICL in my decision includes the policy administrator.

Mrs R is represented in this complaint by her husband, a named driver on the policy. For simplicity, and because most of the information about the complaint has been provided by Mr R, I'll refer mainly to Mr R from here onward.

What happened

Mrs R had an AICL motor insurance policy. In November 2022, Mr R was involved in a minor road accident. Both drivers later provided their insurers with detailed descriptions of the accident, including sketches and photos of the two cars.

In his description of the incident, Mr R said: *"the incident was purely down to the other vehicle drifting over slightly from lane one and too close to my lane."* The damage to his car was superficial and he was able to polish it out so he didn't make a claim on the policy. The other driver said Mr R had come into her lane and hit the side of her car. Her insurer held Mr R liable for the accident. It later sent AICL an engineer's report which quoted repairs to the other driver's car at just over £3,000.

In September/October 2023, AICL and the other driver's insurer agreed to split liability for the accident. AICL paid just over £1,500 towards the third party costs. It sent Mrs R two letters on 10 October 2023. The first said: *"As we have already agreed liability with you, we have now settled their claim."* It said the incident would be recorded as a fault claim against her *"and your No Claims Discount will remain disallowed."* The second said: *"Based on the details available, it will not be possible to prove that the third party involved was fully negligent. In our opinion, this matter would be best settled on a shared basis with both parties accepting partial fault."*

Mr R didn't accept this. He said, in summary:

- He didn't accept liability for the accident. The other driver was to blame.
- Most of the damage to the other car pre-existed the collision so this was a fraudulent claim.
- AICL failed to investigate this appropriately and failed to support them in the claim against them.
- AICL failed to keep them updated about the claim.

AICL told Mr R:

- Its decision to share liability with the third party's insurer was reasonable and in line with the policy terms.
- It failed to pass his premium concerns to the relevant department, as promised. It was now reviewing this.
- It failed to review Mr R's evidence about the accident. In particular, it missed Mr R's concerns about the other party's claim for damage. If it had done so, it would have arranged an independent inspection of the other car.
- The third party had repaired the car, so AICL wasn't able to challenge these costs. However, this wouldn't have changed its decision about liability.
- It failed to respond promptly to the third party insurer's correspondence. This meant it couldn't prove the other party was negligent.
- Its complaint handlers failed to address Mr R's previous complaints.
- It offered Mrs R £400 to apologise for these failings.

Mr R didn't accept this and complained to this service. He's unhappy that AICL recorded the accident as a fault against him when he says the other driver was to blame. He's also unhappy he lost his no claims discount (NCD), and his premiums increased after the accident.

Our investigator didn't recommend that Mr R's complaint should be upheld. She thought AICL correctly agreed to split liability and she was satisfied this was in line with the policy terms. She thought its £400 offer to apologise for how it handled the claim was fair.

Mr R didn't agree, so the complaint was passed to me to make a final 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 don't uphold the complaint, for the same reasons set out by our investigator.

First, ombudsmen decisions are published so are written in a way that prevents the customer from being identified. The circumstances of the accident are known to both parties so I'm not going to set them out in too much detail here. If I'm vague about them it's to keep Mr and Mrs R from being identified not because I've ignored them or think them irrelevant.

Second, Mr R was disappointed that our investigator failed to recommend "*actions for improvement*" by AICL. As our investigator explained, we don't have the power to order this type of action. That's for the UK's financial regulator, the Financial Conduct Authority (FCA). Mr R should, if he wishes, raise this directly with the FCA. Our role is only to look at what happened in the circumstances of this complaint and decide if AICL acted fairly and reasonably.

Under the terms and conditions of Mrs R's policy, AICL can take over and deal with a claim as it sees fit (page 44, '*General conditions applicable to all of the policy*'). This is common in motor insurance policies and AICL doesn't need Mrs R to agree this. This also means AICL can make a decision Mrs R doesn't agree with. If it does, I can decide if that decision was fair and reasonable.

Having considered all the evidence about the accident, I think AICL's decision to accept shared liability was reasonable. In short, two cars in adjoining lanes collided. Both drivers' descriptions and sketches essentially show the same thing. The only difference is that both

drivers say the other moved across into their lane. There was no dashcam footage, no CCTV, and no witness statements. I agree with AICL that, given the evidence, sharing liability between the parties was the most reasonable decision. I'm satisfied that a court would likely come to the same conclusion.

AICL recorded the claim as a fault against Mrs R. This is because a claim is considered 'fault' when the policyholder's insurer doesn't recover its costs. This can be the case when an insurer agrees to split liability for an accident with a third party insurer. AICL agreed to share the cost of repairs to the other car, so this is recorded as a fault claim against Mrs R. I know Mr and Mrs R might think this unfair, but I'm satisfied this was reasonable.

As our investigator explained, this incident didn't affect Mrs R's No Claims Discount (NCD). The policy booklet explains the Protected No Claim Discount: *"If you have four or more years' NCD, we'll protect it against two fault claims in a three-year period."* AICL confirmed this applied to Mrs R.

However, it's possible the fault claim affected Mr and Mrs R's motor insurance premiums. I understand AICL is reviewing a separate complaint about their premiums so I'm not going to cover that here. If they remain dissatisfied with AICL's response they can bring their complaint to this service.

I think AICL handled the situation incredibly badly and I'm pleased it recognised that this was unacceptable. In summary:

- It failed to review Mr R's description of the incident adequately.
- It failed to address his concerns that the other car had pre-existing damage or challenge the repair quote.
- It failed to engage with the third party's insurer about liability or keep Mrs R updated about this.
- Its communication about the settlement in October 2023 was contradictory and confusing. It also mistakenly said Mrs R's NCD would be disallowed.
- Its July 2024 response to Mr R's complaint was inadequate and failed to address his key concerns.
- It appears that it only investigated the complaint properly when Mr R complained to the intermediary's Chief Executive.

I've thought about what this service might award in similar circumstances. Having done so, I think AICL's offer of £400 to apologise for its failings is fair.

My final decision

My final decision is that I don't uphold the complaint because I think AICL's offer was fair.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R and Mr R to accept or reject my decision before 28 March 2025.

Simon Begley
Ombudsman