

complaint

Mr S is unhappy with the way U K Insurance Limited (trading as Direct Line) has dealt with a claim on his motor insurance policy.

background

A motor cycle collided with Mr S' car and his car was written off. UKI contacted the third party's insurer to find out if it would accept liability. But it refused to do so as it said the third party said the motor cycle had been sold. UKI doubts this is the case as its database shows the third party insurer as the motorcycle's insurer. And UKI asked it to produce documentary evidence to support what it said. The third party insurer says it hasn't been able to get this from its insured and has refused to accept liability. So, UKI has referred the matter to its solicitors to start court proceedings.

Mr S isn't happy about this. He says taking court proceedings will slow things down and result in his premium increasing at renewal. He wants senior personnel at UKI to raise the case again under an escalation process with their counterparts at the third party insurer.

UKI says it can only use the escalation process once and not a second time as Mr S would like. That's why it's going to start court proceedings. This process cannot be changed and its claims handler has been proactively dealing with the claim to progress it.

Our investigator felt this complaint shouldn't be upheld. She said:

- Mr S' policy says UKI can take over and carry out the negotiation, defence or settlement of any claim. And it can take proceedings in Mr S' name.
- UKI has an agreement with the third party's insurer to refer disputed liability cases to a discussion between their senior personnel to try to resolve matters. Under this procedure a matter can be referred only once. And as it's already done so in Mr S' case it cannot do so again as he'd like. Here there's also nothing new to suggest the third party insurer might change its mind.
- UKI can chose to start proceedings if it thinks it has a reasonable chance of success as is the case here based on the facts and available information.
- Overall UKI has acted fairly and reasonably and she will not be asking it to do anything more.

Mr S thinks UKI's process is poor and not in customers' best interests. Starting legal action will cause unnecessary delay and inconvenience. We should be considering what is in the customer's best interest.

my findings

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

I agree with the investigator's conclusions for the same reasons.

It's not our role to decide who's at fault for an accident. But we can look into whether UKI has conducted a reasonable investigation into a claim and acted fairly when making its own decision on liability and on how to progress a claim.

Under the terms of the policy UKI's entitled to take over, defend and settle a claim as it sees fit. And it can issue proceedings in Mr S' name. It also doesn't need his approval of any decision to admit liability, settle a claim, make a payment to a third party or start legal proceedings.

Overall I think UKI has investigated matters reasonably. And based on the available evidence it's tried unsuccessfully to get the third party insurer to accept liability and to get more information from its insured.

UKI has also used an escalation process to discuss the case at senior level with the other insurer to see if an agreement could be reached on liability. That was reasonable but ultimately unsuccessful. This process only allows for any case to be escalated once. And I don't think it's unreasonable for UKI to point out that under the agreed terms of the escalation process it cannot do so again, as Mr S would like.

Mr S says this process is poor. But this service isn't a regulator. We can't require UKI to change its practices and procedures. General issues about how the insurance industry works are a matter for the Financial Conduct Authority.

UKI has considered the available evidence and considers it has a reasonable chance of successfully pursuing court action against the third party. And it's passed the case to its solicitors to start proceedings which I think is reasonable.

Mr S isn't happy with this saying it will delay resolving this matter which will increase his premiums and cause him problems when insuring a new car. I understand Mr S' frustration. But taking everything into account I don't think UKI has done anything wrong. I think its decision to start legal proceedings is fair and reasonable and in line with the policy terms and conditions.

Overall I don't think I can fairly or reasonably require UKI to anything more or differently. And I don't see a compelling reason to change the proposed outcome in this case.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 March 2019.

Stephen Cooper
ombudsman