

complaint

Mr P complains that Society of Lloyd's (trading as Canopus Managing Agents Limited) paid another driver's claim under his motor insurance policy after an accident. He wants an apology and an explanation. He also wants the claim removed from his record and compensation for the extra premium he's had to pay.

background

Mr P was involved in a low speed motor accident when his motorcycle pannier made contact with another driver's car. His motorcycle wasn't damaged and he doesn't believe the car was damaged either. But the other driver made a claim. Mr P now accepts Lloyd's decision to accept liability, but he remains unhappy about its decision to pay the other driver's claim for damage. Mr P said his pannier couldn't have caused the damage claimed.

Lloyd's maintained that it had made the right decision about the claim. However, Lloyd's paid Mr P £100 compensation for issues with its service (it failed to respond to an email and agrees it could have accepted the complaint over the phone).

Our adjudicator didn't recommend that the complaint should be upheld. He thought Lloyd's had acted reasonably in concluding from two engineers' reports that the other driver's car was damaged in the incident. He thought Lloyd's had reasonably offered that Mr P could reimburse its costs to reinstate his no claims discount (NCD). He thought its offer of £100 for its poor service was reasonable.

Mr P replied that the first engineer wasn't properly briefed by Lloyd's and if he had been then the other driver's claim mightn't have been paid.

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 can appreciate that Mr P feels frustrated that the other driver's claim for damage has been paid when he thinks it was pre-existing. I can understand his concerns about fraudulent claims.

Mr P agrees that he made contact with the other driver's car. He doesn't want to dispute liability. But Mr P says that Lloyd's didn't do enough to establish what pre-existing damage existed on the other driver's car. He says that Lloyd's should have asked the other driver to say what damage was being claimed for. He says that it's unfair that Lloyd's just paid the claim without validating the damage caused by the collision.

The adjudicator has explained that Lloyd's is entitled under the terms and conditions of its policy with Mr P to take over, defend, or settle a claim as it sees fit. Mr P has to follow its advice in connection with the settlement of his claim. This is whether he agrees with the outcome or not. This is a common term in motor insurance policies. Also, insurers are entitled to take a commercial decision about whether it is reasonable to contest a third party claim or better to compromise.

The adjudicator has also explained that we don't assess whether or how damage to a vehicle would be caused. This is a matter for the experts in these situations, the insurance companies and engineers. Our role in these complaints is to determine whether an insurance company has considered all the available evidence and whether it can justify its decision to pay a claim.

Lloyd's maintained that it had made the right decision about the claim. It had two engineers look at the damage. The first said there was some pre-existing damage, but he also felt the car had suffered damage in the accident. The second said *"it would be impossible to confirm without doubt that the damage was not caused in this incident."*

So Lloyd's wasn't in a position to prove that the damage wasn't consistent with the accident and so it couldn't refuse to deal with the other driver's claim. It decided to settle it in full. I think it was entitled to make this decision, according to the policy terms. But Mr P says it didn't do this after reasonably considering the evidence available.

He says that some of the damage to the other driver's car couldn't have been caused by the pannier. If the other driver had claimed for this then the claim should have been rejected as a whole. But this didn't happen. The other driver wasn't invited to claim for specific areas of damage. The expert engineer assessed the damage and thought that some of the damage could have been due to the pannier.

Mr P said the first engineer hadn't been sufficiently briefed by Lloyd's about the accident circumstances and the pre-existing damage. But I don't agree that this was needed. The expert engineer identified areas of pre-existing damage in his report. I think he was sufficiently able to identify accident damage without a briefing.

Mr P said he thought he could provide alternative independent engineer's evidence to contradict Lloyd's engineers' views. But I can't see that he has done this so I can't consider it.

I can understand Mr P's strength of feeling. But I think Lloyd's made its decision to settle the other driver's claim after reasonably considering the evidence available. I don't think it should remove the record of the claim or pay Mr P compensation for this.

I note that Mr P told Lloyd's that he didn't want it to settle the claim and that he was prepared to take the matter to court. As far as I can see, Lloyd's settled the claim on a without prejudice basis. This leaves it open to Mr P to take the matter further at his own cost, if he so chooses.

Mr P was concerned about the effect of the claim on his NCD and premiums. I can see that Lloyd's offered that if he reimbursed its outlay, then it would reinstate his NCD. I think this is a reasonable offer.

I think Lloyd's payment of £100 compensation for the trouble caused by its poor service was reasonable. Mr P should contact the adjudicator if he would like the cheque to be reissued.

my final decision

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 P to accept or reject my decision before 18 February 2016.

Phillip Berechree
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