

complaint

Mr D complains that MCE Insurance Company Limited ended up settling a claim by a third party under his motorcycle insurance policy. This was a result of a county court judgement (CCJ) against him. And he's also unhappy that this is now on his credit record.

background

Mr D was in a motorbike accident in March 2017. He believed he was not to blame for the accident. The insurer appointed solicitors. Mr D was interviewed by the police following the incident and after CCTV evidence was inspected. Mr D was told by the police that he could have done more to prevent the accident happening. The solicitors decided to obtain the CCTV footage to review the case.

Mr D says that in July 2018 he received documents that said he was being taken to court by the third party insurer. He contacted MCE and passed all the documents to it. Later that year Mr D was notified that his credit report had been amended and a CCJ had been registered against him. MCE says that it paid the settlement on time.

Mr D complained to MCE, who upheld his complaint in part and offered him £200 because of the CCJ. MCE said it was trying to get the CCJ removed from his credit record, but Mr D wasn't happy with the response so he complained to us.

Our investigator partially upheld the complaint. She thought that MCE was entitled - under the terms of the policy - to settle the third party's claim. And that it had acted reasonably in doing so. But she thought that MCE could have done more to avoid the CCJ against Mr D. She thought that Mr D would have found getting a CCJ distressing and she thought that MCE should pay Mr D a total of £400 for the distress and inconvenience he experienced as a result of this.

MCE did not agree with the investigator. Because it had paid the judgement within 28 days it didn't feel that a CCJ should have been recorded against Mr D. MCE thought it was the third party insurers' responsibility to inform the court that the payment had been made on time.

Mr D was happy with the £400 as compensation.

The matter has come to me for decision.

my findings

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

From the evidence I can see that MCE was not prompt in dealing with the proceedings that were issued against Mr D. MCE also admitted that it failed to respond to the date the court gave and this resulted in a CCJ being registered against Mr D.

I can see MCE sent the payment to the third party insurers by BACS and it was released on the 28th day following the judgement. But the court was not informed payment was received until after the 30 day period allowed to pay a judgement. Because of this Mr D had a CCJ entered against him. It showed as satisfied, which means the payment was made but not within the 30 day period.

What should have happened is MCE or its solicitors should have settled without the need for the case to go to court or at the very least, tried to defend the case. This means Mr D wouldn't have had the judgement recorded against him.

MCE have not been clear whose responsibility it was to let the court know payment was made in time. MCE incorrectly thought it was down to the TP insurer to tell the court the judgement had been paid. When it could have done this and provided the court with proof it was paid within 30 days or it could have got the proof off the TP insurer and sent this to the court. The court would then mark it as cancelled, as opposed to satisfied and it would come off Mr D's record.

MCE had asked the third party insurer to sign a consent order to set the judgement aside and it had coordinated with a credit reference agency to remove the CCJ from Mr D's record. But MCE hadn't provided the court of proof of payment as suggested.

We have been in contact with MCE and its solicitors recently to find out whether the CCJ has been cancelled. MCE was looking to have the CCJ removed and had got it's solicitor to contact the credit reference agency to remove the CCJ from Mr D's credit record. And I understand that the credit reference agency can ensure that the CCJ is removed from all the credit reference agency's records. And I have recently been told that the CCJ was finally cancelled on the 12 September. This means the CCJ is also removed from the court record to make sure that Mr D does not suffer any prejudice in future. And I think this will also ensure it doesn't come up on any credit checks done on him.

MCE was responsible for the initial error that resulted in the CCJ being issued. I think that had it originally responded to the date the court gave it then Mr D would not have had the CCJ recorded against him. It then didn't act reasonably or promptly in trying to cancel the CCJ. Although Mr D has been caused distress and inconvenience because of how long the CCJ has remained on his record, he hasn't said he's incurred any specific financial losses as a result of the CCJ. I therefore think MCE should pay Mr D £400 in total as compensation for the distress and inconvenience its errors caused him. I think this amount reflects the level of distress and inconvenience he experienced, bearing in mind what happened must have been very frustrating and worrying for him.

Mr D is also unhappy that MCE didn't get the CCTV evidence and defend the third party claim against him. MCE should have done this, but even if it had I think it would have ended up settling it. It had a right to do this under the policy and I think it would have been reasonable based on what happened. The police officer did consider the CCTV evidence when he interviewed Mr D. The officer said Mr D could have done more to prevent the accident. Mr D wasn't prosecuted, but attended a safety awareness course. This suggests Mr D was responsible for the accident. And I think this would most likely have led to MCE agreeing to settle the third party's claim. This would have meant Mr D having a fault claim recorded against his record, but not having a CCJ ever recorded against him. Now the CCJ is cancelled he's back in the position he should have been in. But he has experienced distress and inconvenience and – as I've already said I think compensation of £400 is appropriate for this.

my final decision

I partially uphold this complaint

I require MCE Insurance Company Limited to pay Mr D a further £200 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 4 November 2019.

Esperanza Fuentes
ombudsman