

complaint

Mr L, on behalf of Ms H, who in turn is acting on behalf of the estate of her late daughter, Miss S, has complained about a declined claim under Miss S's motorcycle personal accident policy. She has also complained about the customer service provided by MCE Insurance Limited in relation to this claim.

background

Miss S held a personal accident policy that she had purchased from MCE. The policy was underwritten by a Danish company. In February 2013 Miss S had an accident in which she injured her arm and Mr L made a claim under the policy on her behalf. Miss S died in September 2013.

In November 2013, Mr L complained to MCE that Miss S's claim had not been settled and about MCE's failure to respond to his correspondence regarding the claim.

Because MCE did not respond to Mr L's complaint, he referred it to this service.

our initial conclusions

Our adjudicator said that, as MCE was not the insurer under the policy she could not consider a complaint against MCE in respect of the failure to settle the claim.

Our adjudicator also said that compensation for trouble and upset could only be awarded to the policyholder. So she was unable to recommend that MCE should pay compensation for trouble and upset that Ms H and Mr L suffered as a result of poor customer service.

Mr L and Ms H did not agree with our adjudicator's findings.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I have seen a copy of the policy document from which it is clear that MCE was not the insurer under the policy. It was not, therefore, MCE's responsibility to consider the claim on behalf of the insurer and I cannot decide it should have done so even if I thought that the claim ought to have been paid.

It might be possible for Ms H to make a separate complaint to this service against the insurer. However, because the insurer is a Danish company that does not have an office in the UK, Ms H would need to show that the activity complained about (the decision not to pay the claim) took place within the UK. If she cannot do that, this service will not have jurisdiction to consider her complaint.

If Ms H can show that this service could consider a complaint against the insurer, she would need to demonstrate that the decision to decline the claim was not fair and reasonable. This would involve showing that Miss S's injury met the terms of the policy. The policy covered *"the total loss of use of an arm...which in the opinion of an expert medical specialist will not be recovered."* I have seen a letter from the specialist who treated Miss S after her accident. He says that Miss S *"lost significant function in her arm"* and that *"She is receiving*

physiotherapy for this and has had intensive rehabilitation to assist her in improving her function.”

The *significant* loss of function suffered by Miss S is probably insufficient to trigger a payment under the policy which requires *total* loss of use. In addition, the specialist does not say that the loss would not be recovered. On the contrary, he suggests that Miss S could have recovered some function through physiotherapy and rehabilitation.

In certain circumstances, this service may require businesses to compensate consumers for trouble and upset resulting from poor customer service. But we will only make awards for non-financial impacts to the consumer themselves. In this case, the consumer was Miss S. Consequently, it would not be appropriate for me to make an award for trouble and upset suffered by Ms H and Mr L who have made the complaint on behalf of Miss S's estate.

my final decision

For the reasons given above, my final decision is that I do not uphold this complaint. I make no award against MCE Insurance Limited.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms H to accept or reject my decision before 29 July 2015.

Charles Bacon
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