

## **complaint**

Mr P says MCE Insurance Company Limited and its solicitors gave him poor service after he made a claim on his motorcycle insurance policy. Mr P is represented by his mother, Mrs P.

## **background**

On 18 November 2017, after Mr P entered a main road from a side road, his bike was involved in a collision with a car. MCE thought the accident was likely to be Mr P's fault. But it started to investigate and instructed a firm of solicitors ("firm F") in February 2018. Firm F told Mr P and MCE at the start of October 2018 that it was no longer able to act for him. It said that was because he'd misled it. Firm F also said it thought the prospects of success in defending the car driver's claim were low.

Shortly afterwards, MCE instructed its own legal team to act for Mr P. The legal team told him on 31 October 2018 that it thought full liability should be accepted. But it thought the sum claimed by the other party should be challenged, so it continued to act for him.

Meanwhile, Mr P had complained to us. He said MCE wasn't sympathetic to him at the outset and didn't give him due care and attention when he called to report the incident. He said he wanted his personal injury claim to be dealt with. He was unhappy with MCE's delay in telling him what the outcome of the liability claim was. In January 2019 MCE told Mr P he could ask this service to consider his concerns. We later told MCE the issues we were investigating and asked it for further details.

In May 2019 MCE told us that liability was still disputed and that it had filed a defence at court. It said it had been trying to take a witness statement from Mr P. It also said it had told him that dashcam footage of the incident meant that the prospects of defending the claim were low. It said it would settle the claim on the best terms possible. It said the time taken to deal with a claim depended on factors such as the co-operation and communication between the parties.

One of our investigators considered Mr P's complaint. He didn't think MCE had acted unreasonably. In his view MCE hadn't caused any undue delays and had continued to support Mr P.

As there was no agreement, the complaint was passed to me for review.

## **my findings**

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

### *initial assistance and firm F's involvement*

We asked Mr P to clarify what he thought the initial lack of support from MCE was. He didn't give us any further details in response to our request. Based on what's in the file, I can't be sure what MCE did that caused Mr P distress. Mrs P told us that when he called MCE to report the claim, he was in hospital (or just out of hospital). She said he was on strong medication and wasn't well enough to speak to a solicitor. She said MCE forced him to speak to firm F. But as far as I can see, MCE didn't ask him to do that straight away. And I think Mr P (or Mrs P on his behalf) could have asked for a delay if he still wasn't up to it. In

my opinion, MCE wasn't wrong in asking firm F to assist Mr P early on, as that was in his interests. It was then for firm F to assess whether Mr P was in a fit state to proceed.

MCE thought from the start that liability for the accident was likely to be decided in the car driver's favour as it didn't think it would be able to defend his claim. But it paid for firm F to act for Mr P anyway. It isn't clear what happened between February 2018 and October 2018, when firm F said it was no longer prepared to act for Mr P. There may have been some undue delay during that period. Firm F told MCE that Mr P had misled it. If there was any confusion, I think that was bound to cause a delay. Whatever happened, by April 2018 MCE had advised Mr P that the claim should be settled. I assume that decision was guided by advice from firm F. By then the dashcam footage of the collision had been viewed - and it didn't support Mr P's version of events - but he still wanted to dispute liability.

When firm F was instructed, it advised Mr P that it was regulated by the Solicitors Regulation Authority. Although it seems Mr P wasn't happy with the way firm F dealt with him, it doesn't look as though he used that route to complain. He would also have been able to complain about firm F to the Legal Ombudsman service. Mr P may still be able to use the legal complaints route. But we can't consider firm F's conduct, as it falls outside our remit.

#### *MCE and its legal team*

MCE reviewed Mr P's claim in October 2018, after he told it he'd received court correspondence that would normally have been dealt with by firm F. Shortly afterwards MCE instructed its own legal team to act for him. But in the meantime, Mr P had complained to us. He was unhappy with progress in general up to October 2018 and didn't fully follow what was happening. He and Mrs P said after he sent the court documents to MCE, he got no response. There was only a short delay between firm F withdrawing and MCE's legal team taking over. It seems MCE passed on the court papers to the legal team. But in the meantime, as far as I can see, it didn't tell Mr P or Mrs P what was happening. In my opinion, MCE should have replied to their emails and kept them updated. So I can see why they were confused and unsure what to do next.

#### *events from January 2019 onwards*

I think it would be helpful to summarise what happened over the next few months, although I can't review it as part of this complaint. The file shows that the legal team chased Mr P for the form of authority it needed to act for him from October 2018 onwards. It also chased him for a statement and for an accident report form. Mr P told MCE he hadn't been contacted by the legal team. He said that he and Mrs P had tried to call it but couldn't get through. But in April 2019 the legal team put Mr P's defence to the court. As it didn't know the full details of his defence, the document just protected his position and challenged the car driver's high credit hire costs. It seems from the file that the legal team tried to get a statement from Mr P until August 2019. At that point, after a long discussion between him, Mrs P and the legal team, he agreed to accept liability, so the claim was settled.

#### *summary of the major issues*

The policy gives MCE the right to settle any claim as it sees fit. I think MCE has shown why it didn't think it could defend the car driver's claim in court from the start. But it got legal advice anyway. The legal advice confirmed that there were no prospects of success in court, so liability should be accepted. In my view, it was reasonable for MCE to try to get Mr P to accept from the outset that it would have to settle the claim.

When Mr P first contacted us in October 2018, he said he hadn't been told the outcome of the claim. When liability for an accident is disputed, often a claim can take many months to resolve. I think MCE took reasonable steps to ensure that Mr P's claim was progressed. I don't think there was any undue delay on its part. MCE had instructed firm F to act for Mr P several months earlier. And he'd had already been told by MCE and by firm F that they thought he wouldn't be able to hold the car driver at fault for the accident. MCE couldn't give Mr P a final decision until much later. That's because other issues (such as the high cost of the car driver's credit hire) had to be dealt with first. So MCE didn't act unreasonably.

Mr P only had cover for third party, fire and theft claims. He complained to us that MCE and firm F hadn't helped him to recoup his losses. But in order to claim for the damage to his bike (and other uninsured losses) he would have had to show that the car driver was at fault. The same applies to his personal injury claim. Given the dashcam evidence, Mr P couldn't show that the car driver was at fault. So that would have prevented any successful claim.

Mr P also complained to us about the general poor service he got from MCE. I don't think he's shown he got poor service at the outset. The service from firm F from February to October 2018 may have been lacking, but we can't look at that. During October 2018 there was a short period in which MCE dealt with Mr P before its legal team took over. When Mr P and Mrs P asked MCE to help with court papers, it referred them to firm F (which was no longer acting for Mr P) in error. It later sent the papers to its legal team. But it doesn't look as though MCE told Mr P or Mrs P what was going on. I can see why they would have found it hard to deal with letters from the court and a lack of contact from MCE about it. I think MCE should have replied to all the emails Mr P or Mrs P sent to it – if only to say that they'd be passed on. So I think MCE's contact with Mr P and Mrs P could have been much better at times during this period.

To reach a decision that I think is fair and reasonable, I've considered Mr P's complaint as a whole. But I've only been able to review the issues he raised with us initially. I think the involvement of firm F complicated matters, especially after it withdrew. It looks as though it wasn't always clear after that who was dealing with what. So Mr P was bound to be worried and confused at times. But taking everything into account, in general I think MCE dealt with Mr P's claim during 2017 / 2018 reasonably, despite some poor communication on its part.

I know Mr P won't be happy with my decision, but I don't think it would be fair and reasonable to uphold his complaint.

### **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 24 September 2020.

Susan Ewins  
**ombudsman**