

complaint

Mr B complained that Acromas Insurance Company Limited wrongly settled another person's claim against his motor insurance policy.

background

Mr B was involved in an accident with a motorcycle. The motorcyclist made a claim under Mr B's policy and Acromas settled this.

Mr B complained. He said that he wasn't to blame for the accident and he was unhappy that Acromas hadn't believed this.

Acromas said that they had taken everything he said into account, but they'd settled the motorcyclist's claim on the advice of their solicitors. Mr B remained unhappy and so he brought his complaint to us.

The adjudicator didn't recommend that his complaint should be upheld. She thought that Acromas had settled the claim fairly and reasonably taking into account the evidence they had.

Mr B didn't agree and so his complaint has been passed to me to decide.

my findings

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

We don't decide who is at fault for causing an accident, as this is the role of the courts. Instead, our role in complaints of this kind is simply to investigate whether an insurer has acted fairly and reasonably, and in line with their policy's terms and conditions when they made their decision about who was responsible.

Mr B's policy, in common with most motor insurance policies, allows Acromas to settle any claim against his policy as they see fit, whether Mr B agrees with it or not. Insurers are entitled to make a commercial decision about whether it's reasonable for them to contest a claim or better for them to settle it.

Mr B said that he was turning right at a junction and was waiting for a gap in the oncoming traffic. One car stopped to let Mr B turn, but as Mr B did so he collided with a motorcyclist coming in the opposite direction. Mr B is adamant that he was not to blame for the accident. He said that the motorcyclist was in the wrong for driving on the inside of the traffic.

Acromas instructed an investigator to interview Mr B and his witness, the passenger in his car. Mr B gave Acromas a sketch of the incident, and they also had photographs of the junction and obtained the police information about the accident.

Acromas did at first instruct solicitors to defend the claim against Mr B. However the solicitors advised Acromas to settle the claim. Having looked how similar cases had been dealt with in court, they didn't think that they could successfully defend the claim against

Mr B. Mr B was adamant that the motorcyclist had broken the Highway Code. But the solicitors said that, since Mr B was turning, it was his responsibility to ensure that it was safe to do so and he should have been looking out for motorcyclists.

The solicitors thought that it was more likely than not that the court would find Mr B to be responsible for the accident, either fully or at least partly.

I can see that Mr B has found this situation very frustrating. He feels that he wasn't in the wrong, and he wants us to say that the motorcyclist was in the wrong. However, as I've explained, that's not our role; we can only consider whether Acromas has acted fairly and reasonably.

It's clear to me that Acromas had thoroughly reviewed the evidence. They fully considered Mr B's account of events, and that of his witness. They took legal advice and they acted on it. They were entitled to settle as they did and they gave Mr B their reasons. Acromas also settled the motorcyclist's claim "without prejudice", which means that it's still possible for Mr B to take the motorcyclist to court if he wishes.

Taking all these matters into account, I think that Acromas did act fairly and reasonably and so I don't think that they've done anything wrong.

my final decision

For the reasons I've given above it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 March 2016.

Rosslyn Scott
ombudsman