



## **complaint**

Mr L has complained that Liverpool Victoria Insurance Company Limited (LV) has held him responsible for his accident and the consequent third party claim under his motor insurance policy.

## **background**

The accident took place as Mr L exited from a side road into the left hand lane of a more major road. While in the process of moving into the middle lane Mr L noticed the third party skid and fall off her motorcycle whilst in the left hand lane.

Mr L pulled over to help the third party and provided her with his contact details. The third party then brought a claim against Mr L, which LV settled in the third party's favour.

Mr L was unhappy with LV's decision as whilst he could not confirm the third party's position prior to the incident, he did not believe that he caused the accident or caused the third party to skid and fall off her motorcycle. The adjudicator believed that the complaint should be upheld. He felt that because there had been no collision, there was insufficient evidence to show Mr L caused the accident. He also believed that LV should have obtained the third party statement and its witnesses' evidence before deciding that Mr L was at fault for the incident.

LV disagreed. It felt that it had an onus to settle the claim as soon as reasonably possible where it was unlikely that the defence of the claim would not be successful at court. It mentioned that Mr L had been unable to judge the whereabouts of the third party before the accident and it felt there was no need to obtain the witness evidence.

Mr L disagreed.

## **my findings**

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

Under the policy and generally, LV does have a responsibility and obligation to settle cases regarding personal injury as soon as possible ensuring it should not proceed to court in instances where the case has no reasonable prospect of success.

Whilst LV does have the right to the power to make decisions on liability; however, it must have all the evidence necessary to enable it to make a reasonable decision on liability. As there was no actual collision between Mr L and the third party in these circumstances, I find that that it would have been more reasonable and indeed fair to Mr L had LV obtained proper witness evidence from the third party. I am especially concerned that the third party has said she has two independent witnesses but LV did not consider it appropriate to obtain these witnesses' statements before making its decision to hold Mr L liable.

In this case the third party is alleging that she fell off her motorcycle due to some action by a car that pulled out in front of her. LV has not obtained a copy of the third party statement. Therefore, while it may be clear that a car caused the incident, it is not clear if it was Mr C's

car that caused it. Both Mr and Mrs L, who was in a car at the time, have stated that the third party fell off her motorcycle some distance away from their car, which could mean it is more possible that another car other than Mr L's caused this incident.

I note that LV feels the fact that the third party had initiated proceedings showed it had a strong case. However, without seeing this evidence and having a clear view of the third party's account of events, I do not believe LV should have settled the case based solely on the third party initiating court proceedings.

As a result, I find that LV did not make a reasonable decision in holding Mr L liable for this incident and the third party's claim.

### **my final decision**

For the reasons above it is my final decision that I uphold this complaint. I require Liverpool Victoria Insurance Company Limited to do the following:

- Reclassify the claim against Mr L as non-fault. Any increase in premiums which Mr L had subsequently suffered should be adjusted accordingly if Mr L remains insured with it.
- If not, it should provide a letter to Mr L for him to show his new insurers so his premium can be adjusted according on the basis on of non-fault claim. This letter should confirm that it conceded liability in error.
- Reinstate Mr L's No Claims Discount.

Rona Doyle  
**ombudsman**