

complaint

Miss M complains that Markerstudy Insurance Company Limited mishandled her motor insurance.

background

Markerstudy was the insurer under a third party, fire and theft policy for Miss M. She and a third party were involved in a road traffic incident, which Miss M said was not her fault. Her vehicle was damaged beyond economic repair.

Time went by and Miss M insured again with Markerstudy through a broker. When the broker found out that the third party had made a claim - which Markerstudy had paid – it asked her for an extra premium of about £450. Miss M could not afford it and Markerstudy cancelled her policy. Markerstudy accepted that it might have settled liability with the third party on a 50/50 basis. It sent Miss M a cheque for £500, 50% of the pre-accident value of her car.

The adjudicator recommended that the complaint should be upheld. He thought that Markerstudy did not act fairly or reasonably in settling the third party's claim. He said it should have told Miss M about the claim. If it had done so, then she would not have taken out the policy in 2014. He recommended that Markerstudy should pay Miss M:

1. £250 for trouble and upset;
2. £68.60 for the fees she paid the broker ;
3. £63.51 for the difference between the £174.62 Markerstudy charged for 52 days of cover (including the additional premium), and the £111.11 it should have charged ;
4. £270 for the 27 days when Miss M was unable to use her vehicle.

Markerstudy disagrees with the adjudicator's opinion in part. It says, in summary, that Miss M should have told the broker about the accident. Markerstudy agrees to pay £250 for distress and upset, but not the other sums the adjudicator recommended.

my findings

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

It is common practice for an insurer to record a claim against its policyholder as a "fault" claim unless and until the insurer recovers its outlay in full from a third party. There may be a number of reasons why such recovery may not be practicable. Therefore a record of a fault claim does not necessarily reflect badly on the policyholder's driving.

Like most motor insurance policies, Miss M's policy allowed her insurer to decide how to deal with and settle any claim involving a third party. The Financial Ombudsman Service considers how the insurer reaches its decision. Provided it does so fairly we are unlikely to intervene. Unlike a court, we do not hear directly from each driver and decide the extent to which each of them is responsible for causing damage or injury.

Markerstudy accepts that it might have settled liability with the third party on a 50/50 basis.

I have seen little evidence that Markerstudy did a reasonable and proportionate investigation before it decided to settle the third party's claim in full.

Therefore I am not persuaded that the insurer treated Miss M fairly or reasonably by the decision it made. But a 50/50 would still have been a fault claim. So I cannot say that the claim should not affect her no claims discount.

After Markerstudy admitted liability, nearly a year passed before its solicitors asked Miss M to admit liability – which she did not.

Markerstudy has not provided details of what questions it asked or what answers Miss M gave when she renewed her insurance in early 2014. So I can't say she gave an incorrect answer.

In any event, I take Markerstudy to have known about the third party's claim. So I don't think Markerstudy relied on incorrect information from Miss M. And I think it ought to have stood by its quotation of about £730.

I do not think it fair that it asked for an extra premium of about £445 and – when she could not pay it - cancelled her policy through the broker after 52 days. I will order it to send her a letter (which she may show to other insurers) saying that it cancelled her policy unfairly.

The broker deducted £68.60 for claims management cover and admin fees. This would not have happened if Markerstudy had not unfairly cancelled her policy. So I will order it to reimburse Miss M, with interest at our usual rate.

I give Markerstudy credit for paying £500. I think this is about half the pre-accident value of her car. And it is what she would have got from the third party or her insurer if Markerstudy had got a 50/50 split.

Miss M has not given details of any other financial loss or personal injury which she might have claimed from the third party. I see no basis for her claim for 50% of what Markerstudy paid the third party for damage to her vehicle and for injury.

Markerstudy made a refund of premium via the broker. But its deduction for the 52 days of cover was in proportion to the original premium plus the extra premium. I have found the extra premium unfair. So I think Markerstudy should refund a further £67.

I do not doubt that Markerstudy's unfair actions caused Miss M upset and put her to some trouble. She was unable to insure or use her vehicle for 27 days, for which I will order £10 per day.

In addition I find £250 is fair and reasonable compensation for the upset and trouble.

my final decision

For the reasons I have explained, my final decision is that I uphold this complaint in part. I order Markerstudy Insurance Company Limited to:

1. send Miss M a letter saying that it cancelled her policy unfairly;

2. pay Miss M the sums in the following paragraphs:
3. £68.60 for the broker's deduction;
4. £67 for the additional premium;
5. simple interest on the sums in paragraphs 3 and 4 above, at the rate of 8% per year from 25 February 2014 to the date it pays her. If it thinks it has to deduct tax from the interest element of my award, it shall send Miss M a tax deduction certificate when it pays her. She can then use that certificate to try to reclaim the tax, if she is entitled to do so;
6. £270 for loss of use of her vehicle;
7. £250 for trouble and upset.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss M to accept or reject my decision before 10 July 2015.

Christopher Gilbert
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