

complaint

Mr I complains that Pinnacle Insurance Plc accepted a third party claim under his motor insurance policy. He now has to pay his policy excess.

background

Mr I was involved in an accident with a cyclist. The cyclist made a claim for injuries and damage to her bike. Pinnacle arranged for an investigator to meet with Mr I and the cyclist and also visit the site of the accident. Pinnacle agreed to settle the third party claim as the cyclist had been in a cycle highway that crossed the road at the time of the accident. It told Mr I that, as set out in the policy terms and conditions, the excess would be due. But it said that he would only have to pay up to the value of the claim as this was less than the policy excess. Mr I complained to Pinnacle about the decision but it declined to change the outcome of the claim. It said that the cycle highway was clearly marked. It said that if the matter was referred to court it believed it would be unable to defend the claim.

The adjudicator didn't recommend that the complaint should be upheld. He thought that Pinnacle had carried out a reasonable investigation. It had interviewed both parties and attended the site of the accident. The policy terms and conditions stated that the excess is due for all sections of the policy. He thought that Pinnacle was therefore not acting unfairly in seeking this.

Mr I replied that he didn't believe he should be held at fault. He said that the cyclist crossed in front of his car. He doesn't believe that Pinnacle has carried out any investigation. He said that the third party wasn't in the cycle lane as she stated.

my findings

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

I can see that Mr I is adamant that the accident wasn't his fault. He says that the cyclist had no injuries at the time and said that she was OK. He says that the police who attended after he called them didn't think he was at fault.

The adjudicator has already explained that it isn't this service's role to decide who was responsible for causing the accident. This is the role of the courts. Instead, our role in complaints of this nature is simply to investigate whether the insurer acted fairly and reasonably when it made the decision to settle the claim. We also check that it did this in line with the terms and conditions of the policy

Pinnacle is entitled under the terms and conditions of its policy with Mr I to take over, defend, or settle a claim as it sees fit. This is a common term in motor insurance policies and I don't find it unusual. Insurers are entitled to take a commercial decision about whether it's reasonable to contest a third party claim or better to compromise.

I can see from the records that Pinnacle appointed an investigator to look into the cyclist's claim. He interviewed both parties and visited the site. He thought, on the balance of probabilities, that Mr I would be found at fault if the matter went to court. This was because the cyclist said she was in the cycle lane and this was clearly marked. He thought that Mr I had driven across the cycle lane without seeing the cyclist crossing from his left.

Mr I says that the cyclist wasn't in the cycle lane. He says that she rode into his path. However, I haven't seen any independent evidence to support either side. There were no independent witness statements or CCTV footage. I can see that Pinnacle thought that if the matter went to court, it wouldn't be able to defend Mr I. This would incur further costs. It therefore settled the cyclist's claim. This was a commercial decision made to minimise its costs. I think that it's entitled to decide this.

Mr I says that there was no medical report to support the cyclist's claim for damages. Pinnacle says that it thought the cyclist's claim was minor. If she obtained a medical report, and possibly legal advice, its costs would increase. Mr I might also have to pay more. It therefore settled as soon as possible without waiting for a medical report. Again, I think that it's entitled to do this as set out in the policy.

Mr I says that there was no police report to show that he was at fault. Pinnacle said that there didn't need to have been a crime committed for him to be at fault. I agree that this is reasonable. I think that Pinnacle reasonably decided to settle the cyclist's claim after looking at the evidence available, which I think was sufficient.

Pinnacle asked Mr I to pay up to the value of the claim as this was less than the policy excess. The Key Facts of Mr I's policy says,

"The Total Excess is £3,000. Excess means the amount you must pay towards any claim including costs. You are responsible for the excess even if the Incident is not your fault. The Excess applies to all sections of this Insurance."

So, I think that Mr I is liable for the excess. I think Pinnacle is entitled to ask Mr I to pay up to the value of the claim.

my final decision

For the reasons I've discussed, it is my final decision that I don't uphold this complaint and I make no award against Pinnacle Insurance Plc.

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

Phillip Berechree
ombudsman