

The complaint

Mr E is unhappy with how Skyfire Insurance Company Limited determined liability following a claim on his motor insurance policy. He also complains he didn't receive updates regarding his claim or a renewal letter because of an administrative error on the business' part. He said this prevented him from being able to source alternative cover.

Any reference to Skyfire includes the actions of its agents.

What happened

The circumstances of this complaint are well known to the parties, so I've summarised what happened.

- Mr E has a motor insurance policy which is underwritten by Skyfire. He made a claim on the policy in December 2022 when he was involved in a motor incident. Mr E says the third-party driver was responsible for the accident, and so, he considers Skyfire's decision to record the claim as "split liability" to be unfair.
- Mr E says Skyfire didn't review CCTV footage from the time of the accident which he says would have supported his version of events that the third-party driver had been reckless.
- Mr E also complains Skyfire made an administrative error by recording an incorrect email address meaning he couldn't access his account online, he didn't receive his renewal notification, or updates about his claim.
- Mr E says Skyfire's mistake also meant he missed out on the opportunity to shop around for a new policy at the time of renewal. And he says that when he complained about this, Skyfire said if he cancelled the policy – to move to another provider – he'd be liable for the full amount of the premium – which he didn't consider to be fair.
- When reviewing Mr E's concerns, Skyfire accepted it was at fault for recording his email address incorrectly and him subsequently not receiving updates and renewal notifications. It said Mr E could cancel his policy at no cost to him if he wanted to change provider.
- With regards to the claim, it explained the third party was entitled to dispute liability, but it acknowledged Mr E had raised multiple complaints and spent a great deal of time trying to resolve things. It also acknowledged it had failed to return calls. To recognise its service had fallen short, Skyfire paid £150 compensation.
- Mr E remained unhappy and so, brought a complaint to this Service. An investigator considered it and upheld it. Whilst she was satisfied Skyfire had acknowledged its administrative error, and she considered it offering to cancel the policy at no cost to Mr E to be a reasonable way of putting things right, she wasn't satisfied it had handled the claim fairly.

- She said Skyfire didn't obtain the CCTV when it knew it was available, and whilst it's unclear whether doing so would have made a difference to the outcome of the claim, she thought Skyfire needed to recognise that the opportunity of doing so had been lost. And given Mr E had raised multiple concerns, she said it needed to pay an additional £250 compensation.
- Skyfire accepted the Investigator's view, but Mr E disagreed. In summary he said: Skyfire hadn't complied with its legal data protection responsibilities; it repeatedly refused to acknowledge it had made the administrative error; he disagreed with the third-party's version of events; Skyfire had threatened to hold him liable for the full premium if he switched provider; his premium had unfairly increased; the compensation didn't reasonably reflect the difficulties he'd experienced. And he considered compensation between £2,500 - £5,000 to be reasonable.
- The Investigator considered Mr E's points but maintained her position. Because Mr E disagreed the complaint has been passed to me for an Ombudsman's decision.

What I've decided – and why

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

Having done so, I agree with the outcome our Investigator reached – and I'll explain why. Mr E has raised several complaint points. I want to assure Mr E I have read these, but I am only addressing those which I consider to be relevant to the complaint. This isn't meant as a discourtesy but is to reflect the informal nature of this Service.

Administrative error

It's not in dispute that owing to a mistake on Skyfire's part, Mr E wasn't able to access his online account, and importantly receive updates about his claim and renewal notices. It no doubt was frustrating for him having to spend time contacting Skyfire to get the matter sorted. And this was understandably compounded when Skyfire didn't call Mr E back when it said it would.

Skyfire incorrectly updating Mr E's records meant he found out his policy had renewed after the event - meaning he lost out on the opportunity to look for alternative cover – which again caused him avoidable distress and inconvenience.

I appreciate Skyfire has acknowledged its mistake and said it'll provide feedback to the responsible staff member – and I consider this to be a reasonable course of action in the circumstances. But I've kept in mind the difficulties Mr E encountered as a result of its error when determining how much compensation is reasonable in the circumstances.

Renewing the policy

Skyfire has said if Mr E wants to move to an alternative insurance provider it can cancel the policy and will ensure he doesn't incur any costs as a result. This is its position regardless of whether the premium was paid in full or on a monthly basis. I'm satisfied this is fair as it means Mr E won't be financially disadvantaged by his decision to change provider – should he choose to. But I'll keep in mind the frustration he's felt about this issue when determining compensation.

Claim liability

The dispute here concerns Mr E's allegation that the third-party driver was at fault. And he says Skyfire's failure to obtain CCTV footage means it has unfairly decided the claim as one of "split liability". Ultimately, it's for Skyfire as the insurer to decide how the claim should be settled and the terms of the policy allow it to do so. So, whilst it's not my role to determine *how* liability should be decided, I have considered whether Skyfire acted fairly and reasonably when reaching its decision.

Mr E's main issue is that he said Skyfire determined liability without reviewing CCTV footage which he said would prove his version of events, and that the third-party had been driving recklessly. Neither party has had sight of the footage and so, it can't be said with certainty that the CCTV footage would support Mr E's position.

As our Investigator also highlighted, the position of the camera in relation to where the incident took place, means it's possible it wouldn't have been captured – but I acknowledge Mr E disputes this. Furthermore, Mr E and the third-party's sketches of the event suggest the accident took place in different locations on the road in question – so, it's not entirely clear which CCTV Mr E considers would have proven his version.

As both Mr E and the third-party driver dispute events, and Skyfire has said there isn't enough evidence to show Mr E safely pulled out on to the main road - saying he should have waited for the traffic to clear and not followed a third-party's signal before leaving the side road - I'm not persuaded I can reasonably conclude the CCTV footage would have more than likely changed the outcome of the claim. But I agree that Skyfire had been made aware of it, and ought to have looked into this further. And because that opportunity has been lost, I consider it reasonable to direct it to pay compensation.

When I consider the above, along with the fact there aren't independent witness statements to corroborate Mr E's version of events, I'm not persuaded the absence of the CCTV footage means Skyfire has unfairly determined that liability should be split between Mr E and the third party.

Premiums

I appreciate Mr E is unhappy his premiums have increased but it is normal for premium costs to rise following a claim being made. There are many factors which influence the cost of an insurance policy – with the claims history of the policy holder being one of them. So, on the face of it, Mr E's policy increasing after a claim had been made, isn't unreasonable. And because I'm more persuaded Skyfire's decision to record liability as "split" had been reached reasonably, I won't be asking it to amend Mr E's premium on this basis. But if Mr E has concerns about how the premium was specifically calculated, he'd need to raise this as a separate complaint.

Compensation

I understand Mr E doesn't consider compensation totalling £400 to reasonably reflect the difficulties he's experienced. He says the impact on him has been severe and so, he considers compensation much greater than £400 to be warranted. Whilst it's not my intention to diminish Mr E's genuine concerns, quite simply, the compensation he considers to be fair isn't in line with awards this Service would make in circumstances such as this.

I agree Mr E has been inconvenienced by Skyfire's mistakes, and that its failure to obtain CCTV means an opportunity was missed, but, when I consider what Skyfire has done to put things right - namely, apologise and agree to cancel his policy at no extra cost to him – I'm satisfied the additional compensation our Investigator awarded is fair in the circumstances.

Skyfire has already paid £150 compensation, and so, it only needs to pay an additional £250 to bring the total compensation to £400.

My final decision

My final decision is I uphold this complaint and direct Skyfire Insurance Company Limited to pay Mr E an additional £250 compensation.

Skyfire must pay the compensation within 28 days of the date on which we tell it Mr E accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 4 January 2024.

Nicola Beakhust
Ombudsman