

The complaint

Miss M complains about Markerstudy Insurance Company Limited's ("Markerstudy") delay in handling a third-party claim made against her motor insurance policy.

What happened

Miss M was informed by Markerstudy that they'd received notification of a claim from a third-party insurer ("TPI"). Miss M provided evidence to show her car was in a garage over 200 miles away on the date of the alleged accident so she explained she couldn't have been involved. Miss M says she heard nothing further and assumed the matter had been closed. She says, at renewal, she decided to take out a policy with another insurer and declared she hadn't made any claims and had two years' No-Claims Discount ("NCD") and her premium was calculated based on this. Miss M says her new insurer then notified her that Markerstudy had confirmed the claim was still open and she therefore had nil NCD. The new insurer then requested an additional premium of £514.96. Miss M paid this, but she complained about Markerstudy's delay in handling the claim.

Markerstudy responded and explained they forwarded Miss M's evidence to the TPI and asked them to redirect their claim as it was clearly a case of mistaken identity. They explained they then received correspondence from the TPI's solicitors threatening legal action and maintaining Miss M was responsible for the accident. Markerstudy said they continued to maintain their stance that Miss M wasn't involved in the accident, and they also pointed out the accident location was 209 miles away from where Miss M lives. Markerstudy said they continued to chase the TPI and their solicitors for a response, and despite the high amount of evidence, the TPI failed to either redirect the claim or provide evidence to show why they still felt Miss M's car was involved. Markerstudy said, although the TPI are responsible for the length of time the claim has taken, Markerstudy have a responsibility to ensure they action Miss M's case, chase responses and update Miss M on a regular basis. They said they could see this hadn't always been the case and upheld Miss M's complaint. As well as apologising they also sent a cheque for £250 as compensation.

Markerstudy said, although it looks obvious Miss M wasn't involved, they weren't able to close the claim until they received confirmation the TPI were no longer pursuing them. They said they appreciate the impact this claim has had on Miss M's premium, and they'll amend their records once they're able to do so. In their response to our service, Markerstudy have confirmed they've now settled the claim as non-fault with the NCD allowed, and they've removed the claim from the Claims and Underwriting Exchange ("CUE") database.

Our investigator looked into things for Miss M. He upheld the complaint and recommended Markerstudy increase their offer of compensation by a further £250 and pay £500 in total. He also recommended they reimburse Miss M the additional premium she paid in the sum of £514.96 together with 8% simple interest. Miss M agreed, but Markerstudy, while agreeing with the compensation, disagreed with the investigator's recommendation to reimburse the additional premium, so the matter has come to me for a 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've decided to uphold the complaint. And, I think the investigator's recommendation is a fair way to resolve matters.

My role requires me to say how a complaint should be settled quickly and with minimal formality and so I'll focus on what I consider to be the crux of the complaint and the main areas of dispute. Firstly, I've looked at the service given to Miss M. The key facts about the complaint aren't in dispute. Markerstudy say the TPI are responsible for the length of time the claim has taken but have admitted they got things wrong by not being as proactive as they should've. I can see there's no dispute about Markerstudy increasing their offer of compensation by a further £250 and paying a total of £500 to Miss M for the frustration and inconvenience caused. Having considered the error by Markerstudy and the impact on Miss M, I think compensation of £500 is fair and reasonable in the circumstances. The only issue I have to decide, and the only point of dispute, is whether Markerstudy should reimburse Miss M the additional premium she had to pay her new insurer.

When an accident occurs, it's the insurer who'll decide how the claim should be settled - this includes determining which party was at fault. An insurer might choose to accept liability, propose or agree to split liability, or choose to defend any allegation of liability. While this decision rests with an insurer, and it's not the role of our service to decide who is at fault for an accident, we can look to see whether an insurer has handled the claim in a fair and reasonable manner. So, to decide this complaint, I've considered whether it was fair for Markerstudy to keep the claim open for the length of time they did.

The information shows the alleged accident occurred on 12 July 2021 and the TPI notified Markerstudy of this on 26 July. Markerstudy then write to Miss M and ask her to contact them with further information. Miss M then speaks with Markerstudy and confirms she wasn't involved in the accident as the claim relates to an accident in Cardiff, but her car was at a garage in Essex. She then follows this up with an email and letter on 2 August which says, on the date of the accident in question, her car was driven to a garage at 9.00am and was there until 5.30pm. Miss M says her dad then picked up her car and delivered it to her at work and she then drove back home around 8.00pm. Miss M provides a receipt from the garage dated 12 July 2021 showing her car went in for a service and the work carried out on her car. She also provides an email from the garage sent at 4.42pm on 12 July 2021 to say the work had been completed by their garage in Essex and the car was ready for collection. Miss M also provides photos taken all around her car showing no damage.

Markerstudy then write to the TPI on 13 August attaching the evidence sent by Miss M and point out Miss M wasn't involved in the accident. They say, "*We believe this to be a clear case of mistaken identity.*" System notes provided by Markerstudy show a note dated 14 September which says the accident happened over 200 miles from Miss M's home and she has provided evidence that her car was at a garage for service/repairs on the accident date in question. It says there's insufficient accident information, so the claim hasn't been accepted as, "*This is a clear case of mistaken identity.*"

There's then no further communication to, or from, the TPI until 14 March 2022 where the TPI say they haven't yet received an admission of liability or reimbursement of their outlay. They say liability has been outstanding and their outlay uploaded to the portal since August 2021. They say if they don't receive settlement within seven days, they'll be passing their file to their solicitors. Markerstudy respond on 26 March to say they've already confirmed Miss M wasn't involved in the accident. Markerstudy then write to the TPI on 24 July asking for confirmation they've closed their file and redirected their claim. A letter of claim is then

sent to Markerstudy from the TPI's solicitors on 26 July. Markerstudy then respond on 29 July and say they've previously provided evidence to the TPI which shows Miss M left her car at a garage on the morning of the accident date and her car was there all day, so she wasn't involved in the accident. Markerstudy say they've asked for the claim to be redirected several times. They again attach the evidence showing Miss M's car was at the garage.

Markerstudy then chase the TPI's solicitors on 2 and 26 October and they respond on 30 October and say, further to Markerstudy's letter in July 2022, although they note Miss M disputes being involved, is she able to provide evidence her car was in the garage all day on 12 July 2021. They also provide the third party's description of the driver and ask whether this matches any of the insured drivers on the policy. Markerstudy respond on 17 November and explain Miss M wasn't involved in the accident. They say Miss M lives 209 miles away from the accident location, and the description they've given isn't correct. They confirm Miss M's car was in a garage all day – and they've already sent this information to the TPI. Markerstudy say this is a clear case of mistaken identity and ask the TPI to redirect their claim. Markerstudy then chase the TPI on 26 December and again on 6 January 2023 and 2 February for confirmation they've redirected the claim. I can see Markerstudy then took the decision to close the case and removed details of the claim from the CUE database in February due to it being a case of mistaken identity and not having heard back from the TPI.

Taking this all into account, I think there has been an unreasonable delay in Markerstudy closing the case - and I say this for a number of reasons. Firstly, while it's not my role to determine liability, I think the evidence provided by Miss M was compelling in this case and was sufficient to raise significant doubts as to whether Miss M's car could've been involved in the accident. The information shows the accident location as being Cardiff, yet Miss M provided independent evidence from a garage showing her car was with them all day in Essex – this being more than 200 miles from the accident location. This is clearly recognised by Markerstudy as being a significant point as it's noted in their system notes in support of their decision to not accept liability. Secondly, the compelling evidence I've referred to here is sent to the TPI on 13 August 2021. And, up to the point the case is closed in February 2023, this is the only evidence Markerstudy have. I can't see any further evidence was provided by Miss M to further strengthen her defence or provided by the TPI to support their claim. Markerstudy then decide to close the case based on this same information – which they had since August 2021.

A further point which I think is important here and further persuades me there has been unreasonable delay is that our investigator asked Markerstudy why the claim was removed from the CUE database in February 2023 given that the TPI or their solicitors still hadn't confirmed they'd redirected the claim. Markerstudy say, *"I would think that the CUE removal was requested as it was nearly 4 months from the last time [TPI's solicitors] contacted us and we had already sent [TPI's solicitors] evidence multiple times showing our insured was not involved."* The period Markerstudy then refer to here is October 2022 to February 2023.

Looking at the timeline of events prior to this, I can't say there's any significant difference between the events and the position here when compared to the period between August 2021 to March 2022. Between this period, Markerstudy had already sent the evidence to the TPI, they hadn't heard back from the TPI, and the period here is actually seven months rather than four months.

So, applying the same reasons Markerstudy did later on in February 2023, together with the other two points I've made above, I think it's reasonable to conclude Markerstudy could've closed the case by at least December 2021 – which is four months after they sent the compelling evidence and received no response from the TPI.

I've decided Markerstudy have delayed in closing the case, so I've now gone on to consider what, if anything, would've been different had they not delayed. I've seen Miss M renewed

her policy with a new insurer in February 2022. I've seen a letter from the new insurer to Miss M saying they've looked into the details provided by her when taking out the policy and amended the policy to reflect their new understanding. There's a table showing the original details provided by Miss M and the new details. This shows Miss M originally answered 'No' to a question asking for confirmation of any claims or incidents and '2' for a question asking for any NCD granted years. This has then been amended to 'Yes' and '0', respectively. The schedule of insurance then refers to one fault claim in July 2021. It then says the cost for making this change is £514.96 – broken down as £484.96 for the premium increase and a £30 amendment fee. So, I'm satisfied the open claim, and the corresponding impact on the NCD, were the only factors which caused the price increase.

Given that I believe the case should've been closed in December 2021, this would've meant Miss M wouldn't have been charged the additional premium. Miss M has provided evidence from her dad's bank account which shows the additional premium of £514.96 was paid and I've also seen evidence from Miss M's new insurer confirming this was paid. So, I think it's reasonable in the circumstances for Markerstudy to reimburse the additional premium Miss M paid in the sum of £514.96. Given that Miss M has been without this sum for a period of time, I think it's fair in the circumstances for Markerstudy to also add 8% simple interest to this amount.

I can see Markerstudy say it's unreasonable in the circumstances to expect them to reimburse Miss M the additional premium as the claim should still have been open and on the CUE database at the February 2022 renewal as the TPI and their solicitors were still pursuing a claim in October 2022. Markerstudy say they removed the claim from the CUE database in February 2023 which is less than six months after the TPI's solicitors last contacted them, which would be the usual process. I acknowledge this, but I still don't believe this provides an adequate explanation for why this same reasoning doesn't apply between August 2021 to February 2022. Markerstudy's reasoning also applies to this period as they'd sent the compelling evidence to the TPI, and they hadn't heard back for six months. And I haven't been provided with any persuasive information or explanation as to why Markerstudy's 'usual process' shouldn't also have applied here.

Putting things right

I've taken the view that Markerstudy have unreasonably delayed the claim. So, in addition to the £250 already offered, they should increase their offer by an additional £250 for the frustration and inconvenience caused – bringing the total compensation paid to Miss M for this complaint to £500. I've also taken the view that Markerstudy's delays have led to Miss M having to pay an additional premium. So, Markerstudy should reimburse Miss M the sum of £514.96. Markerstudy should also add 8% simple interest per year to this amount from 2 March 2022 (which is the date it was paid to the new insurer) to the date of settlement and pay this to Miss M. Markerstudy should provide Miss M with a certificate showing any taxation deducted.

My final decision

My final decision is that I uphold the complaint. Markerstudy Insurance Company Limited must take the steps in accordance with what I've said under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 5 February 2024.

Paviter Dhaddy
Ombudsman

