

The complaint

Mr H complains about how Liverpool Victoria Insurance Company Limited (LV) handled a claim he made under his motor insurance policy.

What happened

The details of the claim are well known to both parties, so I won't repeat them again here. Instead, I'll summarise the background and focus on the reasons for my decision.

Mr H was in a car accident in December 2022, and he made a claim to LV. Mr H explained to LV what happened - he reversed out of his drive, waited for a break in the traffic and then continued to move out slowly to join the main road. This is when the third party hit his vehicle as she came from a side road onto the main road Mr H was reversing onto. Mr H said there was no damage to his vehicle, and he's been told by two separate garages that he visited with the third party that her car wouldn't have been damaged to that extent without some damage being present on his vehicle. He also says the third-party told him she was on her way to work but when he saw the certificate of insurance it didn't cover commuting.

LV was also given the third-party driver's version from her insurer which stated Mr H reversed from his driveway and it was Mr H who was at fault.

LV was satisfied the third party had right of way and Mr H had the greater duty of care reversing off his drive onto the main road. It considered the Highway Code in reaching this conclusion. Further, as the damage to the third party's vehicle was on the nearside front door, it considered the third party must have been *almost* fully established in the lane. As a result of this, and the vehicle damage, LV accepted liability for the third party's claim.

Mr H complained about this to LV as he felt he was being harshly penalised. He considers the greater duty of care was owed by the third party pulling onto a main road and didn't agree the third party had right of way as he was already off his drive, over the pavement area in line with the grass verge with his reversing lights on. LV didn't uphold Mr H's complaint, so he came to this service for an independent review.

The Investigator looked into matters and didn't uphold Mr H's complaint. They explained LV was entitled to settle the claim as it saw fit, in accordance with the policy terms. And they hadn't seen any evidence to show the action taken by LV was unfair. Mr H disagreed. He says the third party wouldn't have been fully established in the lane and sent videos showing vehicles making the same manoeuvre as the third party had in the same location. The third party failed to see his car - he reverses in the same way every day and doesn't agree they had the right of way.

This matter has been passed 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.

Although a number of matters and points have been raised, this decision focuses on what I consider are the main issues. However, I've given careful consideration to all of the submissions made before arriving at my decision. Having done so, I'm satisfied the Investigator reached a fair outcome here. So, I don't uphold Mr H's complaint in this matter. I'll explain why.

Firstly, I acknowledge Mr H has strong views about what happened in the accident. But it's not the role of this Service to determine who is responsible for an accident – decisions on this are best dealt with by a court of law.

What I'm deciding in this matter is whether LV has acted in accordance with the terms and conditions of the policy which set out the agreement between the parties. And I'm satisfied it did. I say this because the terms allow LV to conduct, defend and settle a claim as it sees fit. It therefore doesn't need Mr H's approval of any decision to admit liability, settle a claim or make a payment to a third party. That might mean it makes a decision the policyholder disagrees with. For example, it may not try to recover its outlay or settle a claim from the third party or their insurer. I have, however, gone on to consider whether LV made a fair and reasonable decision in settling the claim as it did, based on the evidence it had and the circumstances of the case.

LV explained it accepted liability for the third party's claim on Mr H's policy based on the vehicles' damage and what each party said, including the evidence from Mr H. Having taken this into account, along with the Highway Code, it was satisfied the greater duty of care was on Mr H as the party reversing onto the main road. It also has experience of how courts view such matters and the likelihood of success in pursuing a legal case and would've taken this into account. Whilst Mr H doesn't agree with this approach, LV didn't consider it was a case it would win so accepted liability. And, taking everything into account, I'm not persuaded LV was acting unfairly or unreasonably when it did this.

I understand Mr H is concerned the damaged being claimed for isn't wholly as a result of the accident he had with the third party as he was told this by two garages. But I haven't seen any independent evidence of this. And, as explained above, it's ultimately for LV to decide how to settle the claim, acting fairly and reasonably. Even so, LV confirmed it has taken these comments on board and would consider them alongside the vehicle damage being claimed. I consider this to be fair and reasonable in the circumstances.

In summary, I won't be asking LV to do anything to put things right in relation to this matter.

Finally, I'm aware Mr H refers to the third party not being insured for commuting. But this is an issue for the third party (and their insurer) rather than one which impacts Mr H's complaint in this matter against LV and it's handling of the third party's claim on his policy.

I recognise Mr H will be disappointed with this outcome. But my decision ends what we – in trying to resolve his dispute with LV – can do for him.

My final decision

For the reasons set out above, I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 20 December 2023.

Rebecca Ellis
Ombudsman