

The complaint

Mr B complains that U K Insurance Limited (UKI) held him at fault following a claim made on his motor insurance policy. He's also unhappy with its delays in dealing with the claim.

What happened

Mr B collided with another car whilst he was completing a three point turn. Mr B said the other car had inadequate lighting and so he didn't see it until too late. He provided dashcam footage of the incident. UKI held Mr B at fault before reviewing the footage, but it didn't change its decision after viewing it. Mr B was unhappy with this and that UKI hadn't responded to his concern that the other car had inadequate lighting. UKI paid Mr B £250 compensation for the trouble and upset caused by its delays in the claim. But Mr B remained unhappy.

Our Investigator didn't recommend that the complaint should be upheld. She thought UKI had reasonably considered the evidence available before making its decision on liability, as it was entitled to do by the policy's terms and conditions. And it decided that it would be unable to fully defend Mr B if the matter went to court. She thought it wasn't UKI's role to establish that the other driver's lighting complied with the relevant regulations. She thought UKI's payment of compensation was fair and reasonable for the level of trouble and upset caused by its delays in making repairs.

Mr B replied that he thought UKI hadn't considered that if the other driver had adequate lighting then Mr B would have seen that the road wasn't clear, and the collision would have been avoided. Mr B asked for an Ombudsman's review, so his complaint has come to me for a final 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.

I can understand that Mr B feels frustrated by UKI's decision to hold him at fault for the accident as he thinks the other driver contributed to it. Our approach in cases like this is to consider whether the insurer's acted in line with the terms and conditions of the policy and fairly and reasonably.

The Investigator has already explained that it isn't our 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 how the insurer made the decision to settle the claim.

Did it act fairly and reasonably and in line with the terms and conditions of the policy? And has it treated Mr B the same as someone else in his position.

UKI is entitled under the terms and conditions of its policy with Mr B to take over, defend, or settle a claim as it sees fit. Mr B has to follow its advice in connection with the settlement of his claim, whether he agrees with the outcome or not. This is a common term in motor insurance policies, and I do not find it unusual. And so I wouldn't expect it to be highlighted in the policy documents, but it is set out on page 33 of the policy booklet. Insurers are entitled to take a

commercial decision about whether it is reasonable to contest a third party claim or better to compromise.

That said, we expect an insurer to reasonably investigate a claim and consider the evidence available before reaching a decision on liability.

The evidence that UKI had to consider was the accident circumstances, Mr B's version of events, and the dashcam footage and photographs he provided, albeit it only reviewed this at a later stage. I can't see that there was any other evidence for UKI to consider.

UKI said the onus was on Mr B as the reversing party to make sure the way was clear. It said the dashcam footage showed that the way wasn't clear for Mr B to reverse onto it and that the other driver had some form of lighting on.

Mr B thought UKI should consider the relevant regulations about car lighting. He said the other driver's lighting was inadequate for the time of day. But UKI can't decide if the other driver breached regulations. I can see that UKI decided, based on Mr B's footage, that the other car had some lights on, but it didn't say whether or not they were adequate. And it thought Mr B wouldn't have been able to stop in time and so prevent a collision in any event. So it still thought that Mr B was fully at fault as he was the reversing party and had the responsibility to make sure the way was clear, which it evidently wasn't.

So I'm satisfied that UKI considered the available evidence and made its decision on liability fairly and reasonably as it was entitled to do by the policy's terms and conditions.

UKI agreed that its level of service had been poor. There were avoidable delays in the claim and Mr B had to chase for repairs to be completed. UKI paid him £250 compensation for this trouble and upset. I think that was fair and reasonable compensation for the impact of the errors. And it's in keeping with our published guidance. So I'm satisfied that this was fair and reasonable. I don't require UKI to do anything further.

My final decision

For the reasons given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 January 2024.

Phillip Berechree
Ombudsman