

The complaint

Mrs L complains about U K Insurance Limited's (UKI) handling of her claim, and mis-advice following an accident she was involved in, under her motor insurance policy.

What happened

In June 2022 Mrs L was driving on a roundabout when another vehicle collided with her car causing damage. She says the other driver was at fault. She also suffered injuries as a result of the collision. Mrs L told UKI there was CCTV footage of the incident. She provided the information it needed to obtain this. But it didn't do so. Mrs L says UKI's agent told her she didn't have legal cover under her motor policy. But she does have legal cover under her home buildings insurance with UKI. She says this should've been explained to her.

In her complaint Mrs L says UKI's agent told her she could instruct her own solicitor to pursue her injury claim. UKI would then follow the instructions provided by her solicitor in relation to her claim. She says despite instructions not to – UKI agreed a 50/50 split liability outcome with the third-party's insurer.

In its complaint response UKI says its policy terms allow it to settle Mrs L's claim. This is what it did here. It says Mrs L's account of the incident differed from the third-party's version. It says there was no CCTV footage, which was confirmed by the local council. Based on this evidence it decided to settle the claim on a 50/50 split liability, on a without prejudice basis, with the third party's insurer.

UKI says Mrs L wasn't adequately informed of the possibility for claiming legal expenses under her policy. Because of this misunderstanding it says it offered £250 compensation.

Mrs L didn't think she'd been treated fairly. She says any personal injury payment she receives will, in part, be used to pay her solicitor. She says she has legal cover under her buildings insurance policy with UKI. But it didn't mention this to her, which could have meant avoiding these fees. Mrs L also disagrees with the liability outcome UKI agreed with the third-party insurer. Because of this she referred the matter to our service.

Our investigator didn't uphold Mrs L's complaint. She says UKI handled the claim reasonably based on the available evidence. She noted UKI had requested CCTV footage. But none was available. Our investigator says UKI's agent had incorrectly stated Mrs L had motor legal expenses cover. But she thought £250 was fair compensation to recognise this misunderstanding.

Mrs L didn't accept our investigators findings and asked for an ombudsman to consider her complaint.

It has been passed to me to decide.

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'm not upholding Mrs L's complaint. I'm sorry to disappoint her but I'll explain why I think my decision is fair.

I've read Mrs L's policy terms to understand the cover she had in place and what is expected to happen when a claim is made. The terms under the section "*Other conditions you need to know about*" on page 33 of the policy booklet say:

"When we can act on your behalf

We're entitled to do either of the following:

Take over and carry out the negotiation, defence or settlement of any claim in your name, or in the name of any other person covered by this policy.

Start legal proceedings in your name, or in the name of any other person connected to this policy. This can be for your benefit or our own benefit."

These are common terms found in most motor insurance policies. It essentially means it's up to UKI to decide how to settle Mrs L's claim. This doesn't mean it can do whatever it wants. It must still treat her fairly. But based on the evidence, I think it did.

I say this because Mrs L and the third-party driver blamed each other for the collision. There were no independent witnesses. The records show UKI asked the local council for any CCTV footage it might have from the location of the accident. This was requested within a week of Mrs L's loss. So, if there was video evidence UKI acted promptly to get hold of it. But the council confirmed it had no footage of the incident.

Under its policy terms and conditions, UKI is responsible for paying the cost of a claim where Mrs L is found to be at fault or partially responsible. It's reasonable that it acts to minimise the cost of any claim. Where there's little probability of success in proving the other party is at fault, it will settle the claim based on what it considers to be the best terms. This is what it did here as it didn't think the evidence supported a different outcome.

Based on the evidence I've seen, I don't think UKI behaved unfairly when agreeing to settle the claim as it did.

I've thought about Mrs L's comments that she did have legal cover available. Albeit this was under her building's insurance policy with UKI. She says this is at odds with what its agent told her about having no cover. I couldn't see that the business had responded to this aspect of Mrs L's complaint. So, I asked it to.

In its response UKI says when Mrs L spoke to its agent(s) they were expected to discuss the cover available under her motor insurance policy. It says it's unlikely that a motor trained agent would discuss any other policies Mr L may have had. Including any potential cover this provided.

Having thought about this, I agree with what UKI says. Mrs L's claim related to her motor insurance policy. I don't think cover under another policy would reasonably be expected to be discussed by UKI's agent(s) here.

In its final complaint response, I note UKI says Mrs L wasn't adequately informed about the possibility of claiming for legal expenses under her motor insurance policy. This seems to imply that she did have legal cover in place. In a later submission to our service UKI says its

complaint handler had incorrectly stated Mrs L had motor legal expenses cover. It says this is why compensation was awarded. However, Mrs L is adamant that UKI's agents told her there was no legal cover.

I didn't think it was clear what UKI had told Mrs L about legal cover, or why it had offered compensation. So, I asked it to comment further on this point.

In its response it clarifies that there is no motor legal cover in place under Mrs L's policy. It says its complaint handler had made a mistake when writing its final response letter.

I've listened to the call recordings UKI provided. During one of the calls UKI's agent says she's been trying to see if Mrs L has legal cover. Mrs L then interjects and confirms she doesn't. The discussion moves on, apparently in agreement that legal cover isn't in place. UKI's agent tells Mrs L she can appoint her own solicitor to pursue her injury claim. She also says UKI will follow instructions provided by Mrs L's solicitor, saying that the injury claim is more important than its accident claim.

I've not seen or heard evidence showing UKI's agent told Mrs L she had motor legal cover in place. It's clear from Mrs L's policy schedule that she doesn't.

The agent I heard in the call recording gave inaccurate information about how the claim would be settled. This was decided by UKI – as per its policy terms – it didn't follow Mrs L's solicitor's instructions when settling the claim. However, I don't think it was expected to. UKI was entitled to settle the claim on the best terms it thought it could reasonably achieve.

Having considered all of this, I don't think UKI treated Mrs L unfairly when relying on its policy terms and settling her claim as it did. Its agent confused matters when telling Mrs L it would follow her solicitor's instructions with regards to her claim. This was incorrect. But I think its offer of £250 compensation is fair to acknowledge this. I don't think it was UKI's responsibility to discuss any legal cover Mrs L may or may not have had under other insurance policies. So, I can't fairly ask it to do anymore.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 21 September 2023.

Mike Waldron
Ombudsman