

The complaint

Ms R complains about how U K Insurance Limited trading as Churchill (“UKI”) settled her insurance claim.

What happened

Ms R has a car insurance policy underwritten by UKI. In July 2019 she was involved in a collision as she pulled out of her parking space. Ms R provided UKI with witness names and her account of how the collision happened. She accepted she may be partially at fault but believes the claim should’ve been settled as a 50/50 split in liability.

UKI settled the claim in full and explained that Ms R would be held at fault for the accident. It said that the information it had showed Ms R was likely at fault as she was pulling out of a parking space whilst the third party was established on the road.

Ms R complained. She explained that she felt the third party was driving too fast along the road and she said she may not have been concentrating. Ms R also said the third party was on the wrong side of the road as they had overtaken a stationary van. She believes this shows that she wasn’t the only party at fault. She also explained she was unhappy at how much UKI paid out for the claim, and that she would have to pay excess if she were to get her car repaired.

Our investigator didn’t uphold Ms R’s complaint. He explained that it was up to UKI to determine how to settle a claim and he didn’t think it had acted unreasonably in reaching its decision to settle on a fault basis based on the evidence it had. He explained that as this was an insurance claim, it was fair that Ms R would be charged her excess if she wanted her vehicle repaired.

Ms R disagreed with the investigator. She explained that she should be held only 50% at fault because the third party was in the wrong lane when the incident occurred. She also feels the third party was driving too fast. She asked for an ombudsman to review the complaint.

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.

It isn’t my role to decide who was at fault in this accident, that is an issue better suited to a court of law. My role here is to look at whether UKI was reasonable when it reached its decision to settle the claim in the way it did.

I can see that when Ms R told UKI about the incident it noted down the circumstances. Ms R said it happened as she was coming out of her parking space. She provided witness contact details and UKI contacted the witness – which is what I’d expect it to do.

UKI reached its decision to settle the claim on a fault basis because the witness testimony and Ms R's own account of the events suggested that she was at fault. The incident happened when she was pulling out of a parking space and the third party was already established on the road.

I understand Ms R believes the third party was driving too fast but UKI has confirmed there is no way of knowing this was the case. There isn't any CCTV or speed cameras. The witness said it wasn't possible to say if the third party was breaking the speed limit. I also know Ms R is unhappy that the third party was on the wrong side of the road at the time. I understand that there was a stationary van which the third party had to overtake, and which could've obstructed Ms R's view at the time. UKI has said that it doesn't matter what side of the road the collision took place, it based its decision on the fact that Ms R was pulling out of a parking space and the third party was established on the road.

UKI has shown us that it assessed the evidence and spoke to its experts before it decided to accept liability. This is what I'd expect. I know Ms R feels that her legal cover should allow her to challenge the decision but UKI has confirmed that its legal team doesn't think the claim could be defended in court. It was this reason that it accepted liability for the accident. And the legal cover that Ms R has is for losses that aren't covered by her insurance – not for her to challenge the decision on liability that UKI has made.

The terms of Ms R's policy say that UKI is entitled to take over and carry out the negotiation, defence or settlement of any claim in Ms R's name or anyone else covered by the policy. This means it's for UKI to determine how to settle the claim. In this case it decided that based on the evidence Ms R was at fault and I can't say it's done this unfairly.

Ms R is unhappy at the amount of money UKI paid out to the third party for the claim. This is something that UKI can decide based on the evidence of loss from the third party and it isn't something that it has to agree with Ms R beforehand. I can see that UKI told Ms R that she was able to claim for the damage on her vehicle also but she'd have to pay her £350 excess. This is in line with the terms of Ms R's policy so it's not unreasonable that she'd have to pay her excess if she'd like her car repaired as part of the claim.

In summary, I've not seen anything to suggest that UKI acted unfairly when it accepted liability for Ms R's collision. So, I'm not upholding this complaint.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 23 December 2020.

Charlotte Wilson
Ombudsman