

The complaint

Mr M complains U K Insurance unreasonably accepted him as liable for a motor insurance claim.

What happened

In July 2023 Mr M, when driving his car, was involved in a collision with a third-party driver. He claimed against his UKI motor insurance policy for damage to his car. UKI told him the third-party insurer had accepted liability for the incident, the claim would be settled as him not at fault and he didn't need to pay a policy excess for repairs to his car.

A few months later UKI contacted Mr M to tell him the third-party was now denying liability. It said based on the evidence it would have to deal with their claim and he would be considered at fault for the collision. It added it wouldn't seek payment of the policy excess.

Mr M complained to UKI. He said he wasn't at fault. He felt it was unreasonable for it to change its liability decision.

UKI responded to Mr M's complaint in November 2023. It said its decision to accept him as at fault was correct and made in line with terms of his policy. It said it had decided not to require him to pay a £800 policy excess – as it understood he had only decided to go ahead with the repairs when the excess was waived at the time. It said it also wouldn't rescind his two years No Claims Discount (NCD) – but noted it would be up to his new insurer to decide if it wished to honour it now the claim is registered as a fault.

Mr M wasn't satisfied so came the Financial Ombudsman Service. He said he wasn't at fault, UKI hadn't listened to his account and had ignored his dashcam footage. He feels it wasn't reasonable for UKI to change its decision. He's unhappy the fault record will likely increase his insurance premiums. To resolve his complaint he would like the claim recorded as non-fault.

Our Investigator felt UKI's decision to accept Mr M as at fault for the incident was reasonable. She said it had made mistakes when handling the claim. However, she was satisfied it had already done enough to put things right by waiving the policy excess. As Mr M didn't accept that outcome the complaint was 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.

This service doesn't decide who's at fault for an incident. That's the role of the courts. Instead, we look at whether the insurer acted in line with the policy terms and made a fair and reasonable decision. Mr M's policy terms allow UKI to take over and carry out any negotiation, defence or settlement of any claim on his behalf. That means it might make a decision he disagrees with, but the policy allows it to do so. I can consider if its decision to do so was reasonable.

Regardless of the initial reporting of the fault position the third-party insurer ultimately didn't accept its driver as liable. Instead it was claiming against Mr M for damage. So UKI had to decide if there were any reasonable prospect of successfully denying Mr M was at fault. It concluded, based on the dashcam footage, that there wasn't. So it accepted him as being liable.

The collision happened as Mr M was pulling out onto a roundabout to take his first exit. The third-party was leaving the roundabout, having entered it at an earlier point, by the same exit. UKI's feels the footage shows the third-party as established on, and clearly exiting, the roundabout when Mr M pulled out.

UKI's responded to various points made by Mr M. It feels the lack of indicator by the third-party wouldn't make a difference as Mr M pulled out when their car had almost passed him. It also says, regardless of the number of lanes, it wasn't safe for him to make the manoeuvre.

I've considered Mr M's description of the collision and his explanations for him not being at fault. I've also taken into account his references to the Highway Code. But having viewed the dashcam footage, and UKI's reasons, I can't say its liability decision was unreasonable.

Mr M said UKI's acted dishonestly by accepting him to be at fault. He feels its decision may have been influenced by his age. I haven't seen anything to support these arguments. I'm not persuaded he was treated differently because of his age.

Mr M feels UKI shouldn't be able to change its decision, not after telling him he wouldn't be found to be at fault. I've reviewed UKI's claim file and its comments. It isn't entirely clear what happened. There's a note of the third-party insurer initially accepting its driver as liable. UKI's since said it can't find evidence of that happening. It says there may have been a mix up of vehicles. I'm not sure what it means by that. But whatever the cause Mr M was incorrectly led to believe he wouldn't be found to be at fault. So I've considered if he lost out financially as a result.

First I'm satisfied UKI's ultimate decision to accept Mr M as at fault was fair and in line with the terms of his policy. There may have been an initial mistake, but that doesn't mean he shouldn't be considered to be liable for the collision. So I'm not going to require UKI to amend the claim record.

Had that mistake not happened the claim would still have been registered as a fault. UKI settled the third-party damage claim. So even if Mr M hadn't claimed for his own damage there would still be a settled fault claim record. He would still need to declare it to future insurers if asked about claims. So there is no financial loss resulting from the claim record.

Mr M said, had he not been told the claim would be non-fault, he wouldn't have had his car repaired by UKI. Instead he would have paid his own repairer much less than the £3,112 cost to UKI. Even if I accepted the repairs would have cost him as little as £500, I still wouldn't accept he was at a financial loss. He would, because of the third-party repairs, still have the fault claim record. He didn't pay anything for his repairs – UKI covered them under the policy and it waived the £800 excess. So by arranging his own repairs, and covering their cost outside of the insurance policy, he would have been £500 down.

In addition UKI allowed Mr M to keep his NCD when, without the mistake, it would have been lost. That may result in his premiums being lower than they would otherwise.

So I can't say Mr M has ultimately lost out financially because of anything UKI did wrong. He may have been caused some unnecessary frustration and inconvenience, but I'm satisfied its already done enough to put things right for him.

My final decision

For the reasons given above, I'm not going to require U K Insurance Limited to amend the claim record or to do anything differently.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 18 April 2024.

Daniel Martin
Ombudsman