

The complaint

Mrs L complains UK Insurance Limited (UKI) unfairly agreed that she was held at fault for a claim on her motor insurance policy after she was involved in a collision with a third-party vehicle whilst driving her car.

UKI are the underwriters of this policy i.e. the insurer. Part of this complaint concerns the actions of the intermediary. As UKI have accepted it is accountable for the actions of the intermediary, in my decision, any reference to UKI includes the actions of the intermediary.

What happened

Mrs L was involved in a collision with a third-party vehicle.

The collision happened when Mrs L moved away from her stationary position on the right-hand side of the road in which her car was facing the direction of oncoming traffic. After an oncoming bus passed her car she pulled out from her parked position. When she pulled away and moved across to the left-hand side of the road there was a collision with a third-party vehicle.

Mrs L said the third-party must have mounted the pavement to get around the bus that had just passed her and then returned to the road at speed, resulting in them hitting her car at an angle.

Because UKI was unable to reach an agreement with the third-party, based on the evidence available, it accepted responsibility for the incident and agreed Mrs L was at fault.

Mrs L disagreed. She said UKI cannot possibly know for sure the third-party was not at any fault.

Because Mrs L was not happy with UKI, she brought the complaint to our service.

Our investigator did not uphold the complaint. They looked into the case and were persuaded that the outcome reached by UKI to accept liability for the incident was fair and reasonable based on the available footage of the collision.

As Mrs L is unhappy with our investigator's view the complaint has been brought to me for a final decision to be made.

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 is important that I make it clear that it's not my role to decide who's at fault for an accident, as ultimately that's a matter for the courts. I will look to see how UKI reached its decision and that it acted fairly and reasonably in reaching the outcome it did.

I saw in April 2023 UKI confirmed to Mrs L that based on the information she had provided it believed she was not responsible for the accident. I saw UKI said it had sent its views to the third-party's insurer and would update her when it received a response.

The third-party insurer did not agree liability. It said it was holding Mrs L at fault because her car pulled out from a parking space into the path of its insured's correctly proceeding vehicle causing the collision.

In November 2023 UKI wrote to Mrs L to inform her it had been unable to reach an agreement on liability with the third-party insurer and it was possible that a court summons may be served on her. It said the third-party had disputed going over a kerb.

UKI agreed it did initially advise Mrs L that the third-party may be at fault, but this altered when it viewed the dashcam footage of the collision and obtained the third-party version of events. It said if Mrs L had not pulled out in front of the third-party vehicle, the collision would not have happened, so her action and manoeuvre was the cause of the collision. It said she had a greater duty of care to ensure the way was clear when she started her manoeuvre.

UKI said it could not prove any wrongdoing by the third-party vehicle. It said Mrs L would be held responsible for the incident. And it explained this meant UKI would deal with the third-party claim in full and it would be recorded as a claim against Mrs L's policy.

I looked at the dashcam footage that UKI relied upon to make its decision to settle the claim as Mrs L's fault.

The footage shows Mrs L reversing at the side of the road into a position which gave space, behind another parked car, for her to pull out to the road. She stopped and waited until a bus passed. She then drove across the oncoming lane, which had no other traffic and the collision with the third-party occurred.

I saw Mrs L said when she began her manoeuvre the third-party vehicle was not yet visible in her rear or side mirror. She believed it was in her blind spot. She said the third-party vehicle must have mounted the kerb and swung around the bus at speed to get to the collision point so quickly. I do understand Mrs L thinks that UKI has not considered this point, however as there is no evidence of this, it cannot make an assumption that the car mounted the pavement before impact without clear evidence to support this. And it would be hard for it to argue this is what happened if it went to court.

I recognise Mrs L feels strongly that leaving the other driver totally blameless is unfair, but I have not seen any persuasive evidence that there could have been a different liability outcome if there had been further investigation by UKI. I think UKI considered all the evidence available and have then fairly accepted liability for the incident in this case.

Therefore, although I understand Mrs L will be disappointed, I do not uphold her complaint and do not require UKI to do anything further.

My final decision

For the reasons I have given I don't 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 29 May 2024.

Sally-Ann Harding

Ombudsman