

The complaint

Mrs D feels UK Insurance Limited trading as Direct Line (UKI) reached a decision on liability in her motor insurance claim without accounting for all available evidence.

What happened

Mrs D was involved in a collision with a third party when approaching a junction. She says the third party driver was changing lanes by merging left and did not see their vehicle and collided with them. The third party has said Mrs D was merging right and collided with them and their vehicle was stationary at the time. Mrs D has provided UKI with photographs of the damage to her vehicle which she says, by the presence of rubber marks along the side of her vehicle, evidences that the other driver's wheel was turned towards them.

The third party driver did not produce photographs of the damage to their vehicle and UKI did not seek this from the third party insurer. Mrs D said the photographs showed damage to the third party's wheel arch only, which she feels, would be undeniable evidence she was the innocent party.

UKI didn't think the photographs of damage (those provided by Mrs D and any that could be provided by the third party of the damage to their vehicle) were sufficient to prove either party's version of events and said the matter was one word against another. They settled liability 50/50 on this basis.

Mrs D hasn't raised concerns surrounding delay she experienced during the process and the compensation UKI has offered for it. As I understand UKI has already paid this, I haven't considered this in this decision.

Mrs D complained about this to our service. Our investigator concluded UKI acted reasonably in settling the claim 50/50 on the basis photographic evidence would not be sufficient to determine the claim one way or the other.

Mrs D did not accept that decision so the matter 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.

I've come to the same conclusion as the investigator and I'll now explain why.

I should firstly make clear this service is not able to say who is at fault for causing an accident, as that is the responsibility of the courts. Our role is to look at whether UKI has carried out a fair investigation, reviewed all the evidence it has and come to a reasonable decision.

Mrs D's policy, like all other car insurance policies, obligated Mrs D to allow UKI to *"take over and carry out the negotiation, defence or settlement of any claim."* So UKI was entitled to

settle the claim, on the best terms it thought fit. And it had the ultimate and final say in how to settle a claim. It is important however UKI exercises this right fairly and reasonably, taking into account everything both parties had provided.

Mrs D feels strongly the third party driver was at fault for turning into her and maintains the photographs she has provided prove that. She believes the black rubber line along the side of her car can only be interpreted as the left front wheel of the third party's vehicle turning into her. The third party's position is they were stationary and Mrs D was at fault through turning into them.

Multiple UKI claims handlers considered the photographs provided by Mrs D and it informed her *"unfortunately we do not believe that the damage/marks caused to your vehicle is sufficient evidence to prove that the third party has changed lanes into your vehicle... there are no independent witnesses and it's one person's word against another"*.

In the absence of any evidence other than the photographs of the aftermath of the incident, and with both parties making claims the other was the vehicle at fault, UKI felt it would not be possible to reach a clear decision one way or the other on liability. Whilst I appreciate Mrs D strongly disagrees with this and doesn't want UKI to settle on this basis, I'm satisfied UKI did consider the available evidence and circumstances in a fair and reasonable way to conclude a 50/50 split was a reasonable option. And, as I said above, it was entitled to decide whether there were reasonable prospects of success in pursuing the claim. So I can't say it hasn't exercised its obligations in a fair and reasonable way in making the decision it did.

For this reason, I do not uphold Mrs D's complaint in relation to liability.

My final decision

For the reasons set out above, my final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 6 November 2024.

Andrew Wallis
Ombudsman