

## The complaint

Ms T is unhappy with Ageas Insurance Limited's (AIL) handling of a claim she made against her motor insurance policy and she feels that a hasty and incorrect decision on liability was reached.

## What happened

In September 2023, Ms T was involved in a collision with another vehicle. Ms T believes the third party driver was at fault for the accident. There were no witnesses to the incident and the third party driver believes the fault was Ms T's. AIL have concluded it's appropriate to split liability 50/50.

In support of her claim, Ms T provided dashcam footage from her own vehicle which she says shows the third party was at fault for the accident. She says the third party was driving at an excessive speed and should have stopped to enable her to pass. She also said the third party's vehicle had outstanding MOT advisories. AIL reviewed the evidence Ms T provided but thought the dashcam footage may be found by a court to support the third party's version of events, which could result in liability being held fully against Ms T. However, as Ms T continued to maintain the footage supported her position, AIL instructed independent solicitors to review the footage and advise them whether to settle the claim on a split liability basis. AIL confirmed that, due to human error on the claim handler's part, the dashcam footage wasn't reviewed until five weeks after received by them and there was an additional delay of one week in providing it to the solicitors.

AIL eventually received a response from the solicitors who said it was their view that a 50/50 split was an appropriate outcome. However, Ms T says she later received an email directly from the solicitors which she says stated "*Having reviewed the footage, we believe we can argue the Third Party is liable for the collision due to the speed they were travelling at, the space between their vehicle and yours and other factors*". AIL sought to clarify this with the firm of solicitors but an explanation has not been provided. AIL's position on liability remains unchanged.

I issued a provisional decision partly upholding this complaint and I said the following:

*"There are two issues for me to consider in this decision – AIL's decision to settle the claim on a 50/50 split liability basis and also the general customer service provided. I shall consider each point separately.*

### Liability

*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 AIL has carried out a fair investigation, reviewed all the evidence it has and come to a reasonable decision.*

*Ms T's policy, like all other car insurance policies, obligated Ms T to allow AIL to "negotiate, defend or settle any disputes or claims." So AIL 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's important*

however that it exercises this right fairly and reasonably, taking into account everything both parties had provided.

Ms T believes the third party was driving at an excessive speed which she says is supported by the dashcam footage she provided. But I can see AIL has considered this and the claim handler said he “could see a large space in front of the car on the left-hand side in one of the images which appears to be large enough for a vehicle to pull in to allow a vehicle travelling in the opposite direction to continue to pass without impact. If you look at the parked cars on their side of the road there is no such gap. This suggests that you could have pulled in to allow the other driver to pass but instead you have continued in the middle of the road and tried to pass the parked car on the left and the collision has occurred. I am not for a second saying that the other driver doesn’t hold some liability and responsibility here as I do feel they have, they could have waited to allow you to pass and without incident as well. This is the very definition of a split liability which is saying that both drivers involved bear some responsibility for how the impact has occurred. I do agree however, if we did submit this footage to the other drivers insurer, they will likely reject any split settlement and hold you fully at fault.”

Ultimately, while I acknowledge Ms T feels strongly about what’s happened, I’m satisfied AIL has considered the evidence Ms T has provided in assessing whether to settle the claim on a split liability basis. Further to this AIL asked independent solicitors to provide their opinion on whether to accept the settlement on a split liability basis. And the solicitors advised AIL they considered a 50/50 split liability to be fair. Ultimately AIL didn’t think there were reasonable prospects of success in proceeding to court, i.e. they didn’t think it’s likely a court would make a more favourable outcome than the 50/50 split liability. And it’s entitled to make this decision. So, while I recognise Ms T doesn’t think AIL should have settled the claim on a split liability basis, I can’t say it’s handled this aspect of the claim unreasonably.

#### Customer service

While I don’t think AIL’s decision to settle the claim on a split liability basis was unreasonable, I do think it could have provided Ms T with better customer service. And I think this has caused her further avoidable distress and inconvenience. The correspondence between Ms T and AIL that has been provided shows:

- Ms T notified AIL that she had not received certain communications from them that AIL believed it had sent to her. Those communications were not then resent to Ms T promptly.
- Ms T provided footage of the incident from her dashcam to AIL and it’s not disputed AIL incorrectly re-requested this footage over a period of five weeks. This had the effect of delaying the claim.
- In an early call, AIL said that, having viewed the dashcam footage, it would defend the case. Later it said the fact there were MOT advisories potentially outstanding with the other driver would “form part of our case”. AIL later changed its view on both of these points.
- The solicitors instructed by AIL did communicate to Ms T that they could pursue the claim against the third party driver which was confusing in the circumstances and created an understandable expectation on Ms T’s part. The solicitors were appointed by AIL and, so, were acting on AIL’s behalf. So I think AIL can reasonably be held responsible for their solicitors’ actions and for communicating appropriately with them and Ms T.

For these reasons I think AIL should pay Ms T a further £100 in compensation (£200 in total) as she not only faced delay but also frustration and loss of expectation because of AIL’s handling of the claim.”

Ms T requested I consider further points before issuing my final decision:

- The solicitors had led her to believe it would be decided 100% in her favour.
- AIL had not offered to pay her any compensation prior to the process undertaken by this Service.
- AIL hadn't informed her that they've finally concluded a 50/50 split.
- AIL had provided her with a final response letter prematurely during her complaint process with them.
- That she would like a partial refund of premiums paid.
- That she is out of pocket due to being lied to.
- The customer service representative she complained about was a woman not a man (as indicated in the provisional decision).

### **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.

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Ms T's additional queries do not alter the outcome in this matter and so I do not reach a different conclusion to the one I reached in my provisional decision. I note:

- Ms T is correct that AIL had not offered to pay her compensation, but this does not alter the compensation directed.
- AIL was required to respond to a complaint Ms T raised and after 8 weeks had passed it was required to give her rights to refer the complaint to us, even if it hadn't finished its investigations. So AIL acted in line with its regulatory requirements.
- The compensation awarded remains fair and does not extend to a refund of premiums as AIL was entitled to reach the conclusion it did for the reasons set out.
- Any financial cost experienced by Ms T is due to the accident and the 50/50 liability split, which as set out, AIL were entitled to conclude.
- The quote in the provisional decision was made by a male employee within correspondence with Ms T.
- I have considered the other comments Ms T has made, but she hasn't raised anything different to what was raised before. So, I see no reason to reach a different conclusion to the one I reached in my provisional decision. The compensation awarded included Ms T's loss of expectation because of AIL's handling of the claim.

So I partly uphold this complaint for the reasons I set out in the provisional decision.

**Putting things right**

For the reasons set out above, AIL should increase the compensation offered to £200.

**My final decision**

For the reasons set out above, my final decision is that I uphold this complaint in part and direct Ageas Insurance Limited to increase the compensation offered to £200. They should pay this to Ms T directly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 6 November 2024.

Andrew Wallis  
**Ombudsman**