

## **The complaint**

Mr G complained that UK Insurance Limited, trading as Churchill Insurance, offered to settle a third party claim on his motor insurance policy on a split liability basis.

## **What happened**

Mr G's car was in an accident which he said wasn't his fault. So he was unhappy when Churchill offered to settle the claim on a 50/50 split liability basis. He thought that Churchill had failed to act on the correct information and had decided liability against him too quickly and unfairly and unreasonably. In particular he said they'd ignored the third party insurer's admission of liability on the Official Injury Claim (OIC) Portal and failed to obtain CCTV footage evidence which he felt would have supported his account of events.

He wanted Churchill to remove the fault claim from his insurance record, refund his premium, reinstate his previous no claims discount (NCD), and compensate him for their poor service, and the time and effort he said he'd spent on the matter.

The investigator didn't recommend that Mr G's complaint should be upheld. He thought that Churchill had investigated and decided liability fairly. Mr G didn't agree and so I've been asked 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.

Mr G has referred us to two previous final decisions from this Service on other cases, but I can't comment on those in relation to his complaint. That's because every complaint and every set of facts is different, and I can only look at the facts and circumstances of Mr G's complaint.

As the investigator explained, we don't decide which party is liable for causing an incident. That's because that is a matter for the courts. But we do consider whether an insurer has acted in line with their policy terms, and whether they reached their decision in a fair and reasonable way. In this case, I've checked that Mr G's policy does give Churchill discretion to decide liability and take over and deal with the defence and settlement of any claim. This means that Churchill can decide to settle whether Mr G likes it or not. This is something which Mr G agreed to when he took out the policy.

Mr G said that Churchill didn't investigate liability with due diligence. He said the third party insurer had accepted liability in full on the Official Injury Claim (OIC) Portal, but Churchill had ignored that and offered them settlement on a 50/50 split basis. He thought that Churchill should also have obtained CCTV evidence, which he felt would have shown that he wasn't to blame for the accident. He said that in not getting it Churchill missed a chance to potentially have decided liability in his favour.

Churchill have showed us that they did consider the circumstances of the accident. It had happened on a roundabout. I can see that Mr G obtained accounts from Mr G and from the third party. Churchill took into account both sides' accounts of the incident. There were no independent witnesses who supported Mr G's account and so it was one person's word against another.

We wouldn't expect an insurer to always seek to obtain CCTV footage as a matter of course. CCTV evidence might not in fact be available, and even if it were to be available, we can't know that it would have shown the accident or that it would have shown conclusively who was at fault for the accident. So as the investigator said, we can't be certain that CCTV footage would have made a difference to the outcome.

However, Mr G said he'd asked Churchill to get CCTV footage. As the investigator noted, the only reference in Churchill's business file about CCTV footage was a note dated 2 June 2023, when he had no evidence of the accident except some photos, and he was looking into finding CCTV or witnesses. The investigator thought this wasn't the same as Mr G having told Churchill that there was CCTV of the incident. So it didn't seem that Churchill had refused to follow up on it. But Mr G said he asked them on 7 July 2023. I've looked at Churchill's file notes for that date and also from around that date and although I can see Mr G had a conversation with Churchill on 7 July, it doesn't refer to CCTV. I've also looked at the note, headed attendance note, that Mr G gave us about his call with Churchill on 7 July. In his attendance note Mr G details what he said he discussed with Churchill then. But though that note is detailed and about a page long, it does not mention CCTV either. So I'm not persuaded that Mr G did ask Churchill to obtain the CCTV footage. So I don't think it was unfair that Churchill didn't try to get it.

Mr G said that Churchill had also got the liability decision wrong because they'd ignored the third party insurer's admission of liability on the OIC Portal. Mr G had lawyers dealing with his personal injury claim against the third party via that Portal. His lawyers had told him in July that the third party insurer had admitted liability in full on the OIC portal. It's clear Mr G thought that vindicated him. He was unhappy that Churchill didn't follow up with the third party insurer about that admission, and despite that Churchill offered them 50/50 split liability. He felt that Churchill's 50/50 liability offer had conceded liability too quickly and had ignored the OIC Portal admission.

But I can see from Churchill's file that as soon as Mr G relayed to Churchill what his lawyers had told him about the admission on the OIC Portal, Churchill contacted his lawyers, and also the third party insurer, for clarification. Churchill then explained to Mr G what Mr G's lawyers had told Churchill. This was that the third party insurer had not admitted liability in the OIC Portal. What had happened was that third party insurer had not filed the necessary response on the OIC Portal within the prescribed time limits, and so they were automatically deemed to have to pay Mr G's OIC claim. But this was on a without prejudice basis and was just for the personal injury claim aspect. It didn't mean that they had admitted liability for the accident on their insured's behalf. As Churchill explained to Mr G, the third party insurer had at no point in their dealings with Churchill accepted liability on behalf of their insured.

Indeed I can see from Churchill's files that the third party insurer had always denied liability and was claiming that Mr G was liable. They did so before Churchill's liability offer in July 2023 and were still claiming against Churchill in 2024. This was regardless of their OIC Portal deemed admission in July 2023. So the third party insurer had not accepted the 50/50 liability offer, and well into 2024 were still treating Mr G as liable, and claiming against his policy and against Churchill. So I don't think Churchill's 50/50 offer did concede liability too early and I don't think it made an difference to the third party insurer's position as regards liability.

I can also see from Churchill's files that this was not a straightforward claim and there were multiple parties and claims against Mr G's policy arising from the accident.

Overall, I think that Churchill made sufficient investigation into the matter before settling it and it was reasonable of them to offer settlement as they did, when they did, on the evidence they had, on a 50/50 split liability basis. They didn't think they could dispute the third party's claim if the matter were to go to court. Given the evidence, Churchill decided to try to settle the claims on the best terms available to them. Mr G remain unhappy with the decision. But Churchill had to make an assessment of what they thought would be the likely outcome if the claim went to court. Court proceedings always involve an element of risk for both parties and defending or pursuing an action in court will inevitably involve additional costs. If Churchill had let the matter go to court they could have faced significantly higher costs. It follows that I think their offer to settle the claim on a 50/50 split liability basis was reasonable. So I think they handled the claim fairly and in line with the policy.

There will always be some time and inconvenience involved in dealing with an insurance claim. In this case the OIC Portal issue was complex. Mr G was dealing with his lawyers and with Churchill about different aspects of his overall claim, and that's not unusual. I can see why Mr G would have been confused about the OIC Portal issue and what it meant for the claim overall, and I do sympathise with that.

But I don't think that Churchill were to blame for that. Churchill were not involved in the OIC Portal aspect but they did still investigate that issue when Mr G alerted them to it and they explained to Mr G what had happened and what it meant. They explained that it didn't mean that the third party insurer had conceded liability. They contacted the third party insurer too.

So I don't think that Churchill made things worse or handled his case poorly and so I don't think compensation is warranted. Churchill did tell Mr G that that they were dealing with it as a fault claim before they settled it, and they did keep him updated. I think that Churchill didn't act unfairly or unreasonably in settling the claim as they did. Churchill dealt with the complex claims against Mr G's policy and indemnified him under it. And so, although I know that Mr G will find this disappointing, I don't require Churchill to do anything else.

### **My final decision**

For the reasons above, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 28 April 2025.



Rosslyn Scott  
**Ombudsman**