

The complaint

Mr C complains about the position U K Insurance Limited (“UKI”) took on liability on his car insurance claim, and the general level of service he received.

What happened

In May 2023 Mr C was involved in a road traffic accident with another car, so he contacted UKI to make a claim. Shortly after Mr C reported the claim, UKI wrote to him to say the third party was holding him fully at fault. Mr C disputed this, holding the third party at fault.

Mr C subsequently complained about several issues, which UKI provided a final response to on 11 July 2023. In summary, UKI said:

- It had to accept liability because there was no other evidence to support Mr C’s version of events.
- It accepted it hadn’t actively chased the third party’s insurer, causing delay.
- It acknowledged that after repairs to Mr C’s car, rectification work was needed and said the issues had now been fixed.

UKI paid Mr C £100 compensation for the issues it upheld.

By January 2024, the claim was still open and at this point UKI had decided to settle the claim on a 50/50 basis. Mr C complained about this, as he held the third party fully at fault. UKI responded saying it would not change its stance on liability. But it paid Mr C £100 compensation in recognition of having previously informed him it was taking a different stance on liability, and the delay in providing him the definitive liability position it would take.

After Mr C brought his complaint to us, UKI decided to offer Mr C another £150 to supplement the £100 it had paid in January 2024.

Our investigator said we couldn’t look at the events dealt with in the final response UKI sent on 11 July 2023 because Mr C hadn’t referred his complaint to us within six months of that final response. For the events after this, the investigator said he didn’t think UKI had unfairly reached its position on liability, and he found £250 to be fair and reasonable compensation for the remaining issues.

Mr C didn’t agree, so the complaint has been referred to me to decide.

I provided Mr C and UKI with a decision in which I said this Service couldn’t consider the events UKI dealt with in its final response of 11 July 2023 because Mr C didn’t bring his complaint to us within six months of that final response. And I didn’t consider the complaint to have been brought late due to exceptional circumstances. As the investigator has already provided his opinion on the merits of the complaint for the events after 11 July 2023, and Mr C has let us know he didn’t agree, I’ve now looked at the merits of Mr C’s complaint about what happened after 11 July 2023.

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.

Having done so, I understand Mr C will be disappointed by this, but I think UKI has already offered to resolve the complaint in a fair and reasonable way. I'll explain why.

I should start by explaining that it isn't the role of this Service to decide who is liable for a road traffic accident. That's a matter only the courts can decide on in circumstances where liability disputes aren't resolved informally. So I wish to make clear that I make no finding here on who was liable for the accident. I have instead considered if UKI acted fairly and reasonably in how it investigated the claim, and in how it reached its decision on liability.

I've begun by looking at the policy terms and conditions. These say that UKI can take over the defence or settlement of any claim in the policyholder's name. This is consistent with industry standards as car insurance policies typically contain similar terms which allow an insurer discretion to decide the liability position it will take on claims involving third parties. So I think UKI were entitled under the policy terms to decide the liability position it would take.

While the policy terms granted UKI the right to determine its liability position, it must exercise this right fairly and reasonably. Therefore, I've considered if it did so.

I can see that UKI obtained Mr C's version of events when he first reported the claim. It noted Mr C said he was aware there were vehicles behind him, but while he was making a turn a third party attempted to overtake him on the right-hand side, colliding with his car. UKI also noted that Mr C said he thought there may be CCTV and that he'd investigate this, and although there were witnesses, they were friends of Mr C's, so they weren't independent. As I understand it, Mr C couldn't later obtain any CCTV.

I can also see from UKI's claim notes that after the initial report of the accident, it spoke to Mr C on several occasions and discussed the accident circumstances in those conversations. So it appears Mr C had a reasonable opportunity to explain his version of events, and looking at UKI's claim notes, it looks as though UKI had considered his version of events when determining its liability position.

Because UKI received allegations from the third party which held Mr C at fault, UKI would have needed to prove otherwise to achieve a favourable outcome for Mr C.

Although UKI initially decided Mr C was at fault for the accident, it later decided it would try to settle the claim 70/30 in Mr C's favour. But it was unsuccessful, and ultimately it settled the claim on a 50/50 basis as it didn't think the circumstances of the incident fit the clear-cut circumstances required for a 70/30 outcome to be achieved. The rationale UKI provided for settling the claim on a 50/50 basis was that both parties had a duty of care and assumed it was safe to do their manoeuvre.

I acknowledge that Mr C disagreed with the liability position UKI took. But this was a decision UKI were entitled to make under the policy terms. I'm satisfied that UKI reached this decision after giving Mr C a reasonable opportunity to present his version of events and having considered both his account and the third party's account. And I can't say it was unreasonable it came to the conclusion it did. So, I don't find that UKI unfairly exercised its right to settle the claim on a 50/50 basis.

Looking at how the claim progressed after 11 July 2023, I can see it took around six more

months for the 50/50 settlement to be agreed with the third party's insurer. While it wasn't entirely within UKI's control how long this might take given that a third party was involved, UKI were still required to handle the claim fairly and reasonably. And that includes taking steps to ensure the claim was proactively progressed. UKI should also have kept Mr C reasonably updated on the claim as it went on.

UKI didn't dispute that it could have been more proactive on the claim, and communicated more with Mr C. And I think Mr C was treated unfairly because of these issues. But UKI paid Mr C £100 compensation for this when he complained in January 2024. And it offered to pay him another £150 compensation when he brought his complaint to us. Overall, I think £250 is in line with the level of compensation we'd award for these issues, and the impact caused by them. So I think UKI's offer to pay Mr C another £150 compensation was fair and reasonable to put right the distress and inconvenience caused by UKI through its handling of the claim after 11 July 2023.

Putting things right

Given that UKI has already paid Mr C £100 compensation for this complaint, it should pay him another £150 compensation to bring the total to £250.

My final decision

Having already paid Mr C £100 compensation, U K Insurance Limited has offered to pay Mr C a further £150 compensation, bringing the total to £250 for this complaint. I think this offer is fair in all the circumstances.

So my final decision is that U K Insurance Limited should pay Mr C £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 December 2024.

Daniel Tinkler
Ombudsman