

## **The complaint**

Miss W complains about how U K Insurance Limited trading as Direct Line (Direct Line) dealt with a claim under her motor insurance policy, deeming liability to be a 50:50 split. Miss W maintains she wasn't at fault and is also unhappy at the service from Direct Line.

References to Direct Line in this decision include their agents.

Miss W leased her vehicle under the Motability Scheme, operated by Motability Operations Limited (Motability). Insurance for the vehicle was provided by Direct Line. This decision covers Miss W's complaint about Direct Line as the insurer of the policy covering her vehicle, it doesn't cover the actions of Motability as the operator of the Motability Scheme, or Miss W's separate, earlier complaint to Motability. References to Motability are included to provide background and context for what happened in this case.

## **What happened**

Miss W had a vehicle under the Motability Scheme, for which she made an Advanced payment of £1,899 in December 2020. The vehicle was leased under a three-year agreement, due to end in December 2023. In September 2023 Miss W was involved in an accident while driving overseas (a named driver under the policy was driving at the time). She was waiting to exit a petrol station when her vehicle was hit by a lorry coming along the road and dragged her vehicle along the road. Miss W thought there was something sticking out of the lorry that caught her vehicle. The vehicle was assessed as a total loss, leading to the early termination of the Lease Agreement in November 2023.

The third party insurer disputed liability for the accident, saying Miss W's vehicle exited the petrol station incorrectly and caused damage to the third party. As the accident occurred overseas, Direct Line contacted their agent in the country to support their assessment of the claim. Direct Line considered the circumstances of the accident along with the advice of their agent about the legal framework and case law of the country concerned and concluded liability should be split on a 50:50 basis between Miss W and the other party involved in the accident. Under the relevant legislation and case law applicable in the country where the accident occurred, this meant each insurer settling each other's claim. Under the terms and conditions of the Lease Agreement between Miss W and Motability, Motability said she wasn't entitled to a refund of the Advanced Payment. Miss W said she was told if the accident was non-fault on her part, the Advanced Payment would have been refunded.

Miss W was unhappy at Direct Line's decision to split liability for the accident, as well as how they handled the claim more generally, so she complained. Specific points in her complaint included the driver of the vehicle hadn't been questioned about the accident and there were passengers that could support her version of what happened. She also didn't understand how liability could be split 50:50 as her vehicle was stationary and dragged along the road by the lorry. She also didn't think Direct Line took account of her vulnerabilities when dealing with the claim, leading to it taking much longer than necessary. She wanted her Advanced Payment reimbursed.

In their final response Direct Line didn't uphold the complaint. They said the circumstances of the accident meant they had to work through their foreign claims agent to deal with the claim and communicate with the third party insurers, which took time. Direct Line weren't aware Miss W had mentioned the availability of CCTV footage when she contacted them and also they couldn't obtain any tyre markings on the road. From the registration plate of the lorry, it was likely to be from a country Direct Line wouldn't be able to search for. And a witness statement had been obtained. In the circumstances, Direct Line confirmed the decision to split liability 50:50 was the best outcome possible. But Direct Line did accept their engineer shouldn't have discussed liability with Miss W, awarding £100 for any distress and upset caused.

Miss W then complained to this Service. She was unhappy at Direct Line's decision to deem liability for the accident on a 50:50 basis, and they hadn't properly investigated the accident circumstances and the evidence available. This meant she lost her deposit (advanced payment) on the vehicle. She had also spent significant time on the phone to Direct Line trying to resolve matters, causing her stress that exacerbated her medical condition. She wanted compensation from Direct Line for what had happened.

Our investigator didn't uphold the complaint, concluding Direct Line didn't need to take any action. He noted Miss W's strong view she wasn't at fault for the accident and that it was the fault of the lorry that hit her vehicle. The third party insurer disputed liability and in these circumstances Direct Line couldn't simply close the claim as 'non fault'. Miss W hadn't mentioned any CCTV when first notifying Direct Line of the incident and it would have been her responsibility to tell Direct line of any CCTV that might be available. And the witness wasn't considered by Direct line to be independent.

In the absence of any independent witness or other evidence (such as CCTV or dashcam footage) it would be Miss W's version of events against that of the third party. And legislation and case law in the country concerned would mean the respective insurers should pay each other's costs. And while Direct Line hadn't contacted the named driver directly, Miss W had provided a full description of the accident.

The investigator also noted Direct line had awarded a total of £700 compensation for delays and other shortcomings in their handling of the claim, which the investigator thought was fair.

Miss W disagreed with the investigator's view and asked that an ombudsman consider the complaint. She didn't think all aspects of her complaint had been considered. And the delays influenced the outcome on liability.

### **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.

My role here is to decide whether Direct Line have acted fairly towards Miss W. In doing so I've also considered what Miss W has told us about the circumstances of the accident, which I recognise will have been very traumatic and upsetting. I've also borne in mind what Miss W has told us about her circumstances and vulnerabilities.

I would also want to assure Miss W that I've considered the further representations she's made recently, following her being provided a redacted copy of Direct Line's business file.

The key issue in Miss W's complaint is Direct Line's decision to deem liability for the accident to be split on a 50:50 basis. Miss W says this is unfair and she wasn't at fault. She also doesn't think Direct Line properly investigated the circumstances of the accident before

coming to their decision to split liability. More generally, Miss W isn't happy with how Direct Line dealt with her claim.

On the issue of liability, I recognise Miss W feels she wasn't at fault for the accident and she had witnesses to support her version of events. But it's not for this Service to determine liability for an accident and whether a claim should be deemed a fault claim (or a non-fault claim). It's to decide whether Direct Line acted fairly in the circumstances of the accident and in their decision on liability.

From what I've seen, Direct Line did consider the circumstances of the accident and the respective versions of events provided by Miss W and the third party. They also considered the photographs of the location of the incident. From this, they concluded the best outcome they could achieve was a 50:50 split in liability, as both parties denied liability for the accident and in the absence of any independent witnesses or other evidence.

From Direct Line's case notes, I can see a record of them calling the potential witness, but concluding they weren't independent. So, their testimony would not provide conclusive evidence of liability for the accident. Similarly, any evidence from the named driver of Miss W's vehicle and any passengers would not be considered independent. Without independent evidence of what happened, the case notes record the claim had to be settled in accordance with the relevant legislation in force in the country where the accident took place.

The potential availability of CCTV evidence from the petrol station where Miss W was waiting to move out into the road (on which the lorry was proceeding) wasn't mentioned in the call in which Miss W told Direct line about the accident, so it's not clear there was any such evidence, even had it been mentioned and followed up. I've also not seen any reference to, or availability of, dashcam footage from either vehicle. Direct Line also refer to the respective impact points of the two vehicles, being the front of Miss W's vehicle and the side of the lorry, which would also make it difficult to conclude no fault on the part of Miss W.

In these circumstances, where liability is contested, then it becomes the word of one party against the other. And the absence of any independent evidence would make it difficult to conclude anything other than a split of liability. I can also see the overseas agent stating that not accepting the settlement in accordance with the local case law would mean issuing legal proceedings in the country, but the prospects of success would be very low and legal costs incurred would not be recoverable.

Taking all these points together, I've concluded Direct Line considered the circumstances of the accident and they didn't act unfairly or unreasonably in concluding they should accept liability on a split 50:50 basis.

I've also considered Direct Line's handling of the claim more generally, including what Miss W says were unacceptable delays. From the timeline of events, it is clear the case took some time but given the circumstances of the accident taking place overseas and (from what I've seen) the lorry being from a third country, it was always likely that the claim would have taken some time to be considered, as Direct Line would be using their agent in the country concerned, who in turn would have to deal with the third party and their insurer.

But Direct Line have acknowledged shortcomings in the way they handled the claim, and I've considered what they have done in response to Miss W's complaint(s) about their handling of the claim. From what they've told us, they awarded compensation at various points during the claim, for different shortcomings. These were:

- £150 in September 2023 for poor call handling when Miss W first notified Direct Line of the incident and failure to call back when promised.

- £300 in November 2023 for delays in assessing the vehicle as a total loss.
- £200 in March 2024 for delays in third party insurer information being overlooked and incorrect requests sent to Direct Line's overseas agent.
- £50 in June 2024 for poor call handling.

This is in addition to the £100 awarded in the final response issued in January 2025.

Taken together, this is a significant amount of compensation which I've considered in the circumstances of the case and the published guidance from this Service on awards for distress and inconvenience. Taking all these points into account, I've concluded the compensation awarded by Direct Line is fair and reasonable, so I won't be asking them to make a further award.

### **My final decision**

For the reasons set out above, it's my final decision not to uphold Miss W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 11 June 2025.

Paul King  
**Ombudsman**