

The complaint

Mrs P complains about how U K Insurance Limited trading as Direct Line (Direct Line) dealt with a claim under her motor insurance policy following an accident, specifically accepting a 50/50 split of liability when the third party involved in the accident accepted liability.

References to Direct Line in this decision include their agents.

Mrs P was supported by two representatives in bringing her complaint to this Service. References to Mrs P include her representatives.

This decision covers events in this case up to Direct Line's second final response issued in August 2024. Mrs P brought her complaint to this Service in January 2025, which was within the six month period within which a consumer can make a complaint after a business issues a final response. Direct Line issued an earlier final response in March 2024, which is more than six months before Mrs P brought her complaint to this Service. While this means I can't consider the issues in that final response, I've referred to it for background and context to what happened, from the date of the earlier final response to the second final response.

Direct Line's second final response also included other issues of complaint from Mrs P, being whether all repairs to her vehicle had been carried out and the cost of repairs. However, these issues weren't raised in her complaint to this Service, so this decision does not consider them.

What happened

In December 2023 Mrs P was involved in an accident in which her vehicle was in collision with a third party vehicle. From what I've seen about the circumstances, it appears both vehicles were reversing at the time of the incident and the collision caused damage to the rear of both vehicles.

Based on Mrs P's version of the accident circumstances, Direct Line initially maintained liability for the accident was down to the third party, although there was some confusion when Mrs P was told they were accepting a 50/50 split of liability.

After Mrs P complained, Direct Line issued an initial final response in March 2024 in which they apologised for the confusion and said they hadn't accepted the Third Party Insurer offer of a 50/50 split of liability. They said they weren't accepting the offer and in recognition of the confusion caused to Mrs P they awarded £100 compensation to Mrs P. However, Direct Line subsequently changed their position and did accept a 50/50 split of liability, despite an email from the third party accepting they were at fault for the accident. Unhappy at Direct Line changing their position, Mrs P complained again.

In their further final response, issued in August 2024, Direct Line didn't uphold the complaint. They said they needed to evidence and rationalise to the third party insurer why they believed the third party was at fault. Despite the letter from the third party, Direct Line said there wasn't sufficient evidence to support either Mrs P's version of events or that of the third party. Which is why they decided to split liability for the claim. Despite the third party letter,

Direct Line said they were negotiating with the third party insurer, not the third party themselves. As with their own approach, it was possible the third party insurer had subrogated rights to settle any claim in the manner they deemed fit, and could be why they had refused to settle the claim on a no-fault basis in favour of Mrs P.

Direct Line said they'd taken steps to settle the claim as non-fault since Mrs P's earlier complaint but hadn't been successful. So, they wouldn't be able to settle the claim as non-fault, exercising their subrogated rights under the policy to accept a 50/50 split of liability on a without prejudice basis.

Unhappy at Direct Line's final response, Mrs P then complained to this Service. She said the third party had unequivocally accepted fault and liability for the incident, including in an email in April 2024 (which Direct Line had a copy) and Direct Line had previously (March 2024) confirmed it wasn't accepting the third party insurer's offer of a 50/50 split of liability. Direct Line had wrongly accepted a 50/50 split of liability and hadn't taken adequate steps to resolve the claim as non-fault on the part of Mrs P. Direct Line's acceptance of a 50/50 split of liability would inevitably adversely impact the cost of Mrs P's future insurance and her premiums would increase. She wanted Direct Line to pursue the matter with the Third Party Insurer to ensure the claim was recorded as non-fault on her part.

Our investigator didn't uphold the complaint, concluding Direct Line didn't need to take any action. He noted the policy terms provided for Direct Line to decide how to settle a claim, a standard feature in most insurance policies. Direct Line wouldn't have to obtain Mrs P's consent or agreement to their decision. While Mrs P believed Direct Line should take the matter to court, that would also be a decision for Direct Line to take, considering the potential cost involved and the likelihood of success. On the decision to accept a 50/50 split of liability, the investigator noted the third party insurer held Mrs P responsible for the incident and that both vehicles were reversing at the time of the collision. Without any CCTV or independent witness evidence, Direct Line had to decide on liability based on the evidence available (from the parties involved). And liability had to be agreed between Direct Line and the Third Party Insurer (not the Third Party themselves). The investigator also concluded Direct Line progressed matters in a reasonable timeframe.

Mrs P disagreed with the investigator's view and asked that an ombudsman review the complaint. Having been provided with a copy of the third party's version of events (through their insurer) they said it was the view of the third party insurer, and she considered it wouldn't be considered as evidence by a court. So, there was no basis for Direct Line to reasonably conclude liability should be split on a 50/50 basis.

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 Mrs P.

The key issue in Mrs P's complaint is whether it was fair and reasonable for Direct Line to accept a 50/50 split of liability for the incident, when Mrs P says the third party accepted (in an email) they were responsible for the incident. Mrs P says Direct Line should have pressed for the claim to be settled as non-fault in her favour (and taken the matter to court if necessary). Direct Line say the circumstances of the incident mean it was reasonable to settle liability on a 50/50 split and that if the matter went to court it would likely have determined liability should be split in that ratio.

I've considered all the evidence and information available, both from Mrs P and from Direct Line, including Mrs P's response to our investigator's view. Having done so, I've concluded

Direct Line didn't act unfairly or unreasonably in settling liability on the basis of a 50/50 split. I know this will be disappointing to Mrs P, so I'll set out why I've come to this conclusion.

I've first noted the provisions of the policy that give Direct Line the ability to settle claims, including the question of liability. Under the *General Conditions* section of the policy and a subheading 3. *Claims procedures – Our rights and your obligations* there's the following statement:

b. We are entitled to:

- *take over and carry out the negotiation, defence or settlement of any claim in your name, or in the name of any other person covered by this policy;*
- *take proceedings in your name, or in the name of any other person covered by this policy, to get back any money we have paid under the policy."*

This is a common feature of insurance policies, so there's nothing unusual in its inclusion in Mrs P's policy. The terms also mean Direct Line can settle a claim as they see fit, without having to obtain the consent or agreement of the policyholder (Mrs P).

A key part of Mrs P's view the claim should have been settled as non-fault in her favour is an email from the third party driver involved in the accident, which Mrs P says clearly shows their acceptance of liability for the accident. Looking at the email (which she also provided to Direct Line) it includes the statement:

"I would confirm that at the time of the accident, and repeated this to my insurance company, that I accept the liability for the accident."

I can understand why Mrs P believes strongly this is a clear admission of liability. However, it is the third party insurer that [also] has subrogated rights to settle a claim as they see fit. That is, they have discretion over how they settle the claim, including any admission of liability. The same subrogation rights apply to Direct Line as I've set out above. So, the third party insurer is not obliged to simply accept the testimony of their insured and can contest liability, as they have done in a document setting out their position (which was provided to Mrs P as part of our investigation of the complaint).

Ultimately, both Direct Line and the Third Party Insurer agreed to split liability on a 50/50 basis/ In this case, Direct Line's case notes indicate that unless they had a clear admission of liability from the third party insurer (rather than the third party themselves) they would exercise their subrogated rights to accept a 50/50 split of liability.

In these circumstances, the question then becomes whether Direct Line acted reasonably in agreeing a 50/50 split of liability. When reaching this decision, they considered the likely outcome should they pursue the issue of liability to court (and the associated costs of doing so). Mrs P says Direct Line should pursue the matter to court, which I can also understand given the third party email. But Direct Line would have to consider the chances of success and the additional time and cost of doing so.

I can also see Direct Line considered the circumstances of the accident, where the collision occurred when both vehicles were reversing. In those circumstances, notwithstanding the third party's email accepting liability, while it isn't my role to determine liability, I don't think it was unreasonable for Direct line to conclude that the nature of the collision meant a non-fault claim couldn't be maintained in favour of Mrs P. Particularly as there was no independent evidence to support either party's version of events (such as dashcam, CCTV or independent witness statements).

On the evidence and information I've seen, I've concluded they didn't act unfairly or unreasonably in coming to their decision, given the Third Party Insurer's refusal to accept liability.

I can also see Direct Line continued to pursue the third party insurer after the issue of their first final response (their case notes indicate 12 contacts with the third party insurer) but didn't receive any indication they were willing to move from their offer of a 50/50 split of liability. In those circumstances, I don't think it unreasonable for Direct Line to decide to settle liability on a 50/50 basis and they acted reasonably to pursue their case, before deciding the Third Party Insurer wasn't going to change their stance.

Taking all these points into account, I've concluded Direct Line haven't acted unfairly or unreasonably in settling the claim on the basis of a 50/50 split of liability, so I won't be asking them to take any further action.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 20 August 2025.

Paul King
Ombudsman