DRN-5645470

Financial Ombudsman Service

The complaint

Mr A complains about how U K Insurance Limited (UKI) dealt with a claim under his motor insurance policy following an accident, specifically UKI deciding liability for the accident would be split on a 50/50 basis and the time taken to arrive at their decision.

References to UKI in this decision include their agents.

What happened

In April 2022 Mr A was involved in an accident in which his vehicle was in collision with another vehicle. At the time Mr A was driving, with his wife and two sons in the vehicle. He contacted UKI and provided details of the accident online, including sketches and photographs taken at the scene. Mr A maintained the third-party vehicle swerved from the [middle] lane into Mr A's [inside] lane while attempting to turn into a side road, with the former's front left bumper hitting the offside rear door and wheel arch of Mr A's vehicle. Mr A said the third party accepted responsibility for the collision, apologising to his son who was sitting in the area of his vehicle impacted by the collision.

UKI assessed the claim but, in January 2025, wrote to Mr A to say they would be splitting liability for the accident on a 50/50 basis, as the third-party insurer had disputed liability for the accident, maintaining Mr A was at fault. The third-party insurer settled 50% of UKI's outlay on the claim, although the third party hadn't made a claim under their policy. In the absence of any CCTV or independent witness evidence, UKI concluded they wouldn't be able to prove liability on the part of the third party. UKI also reimbursed Mr A for 50% of the policy excess deducted from the claim.

Unhappy at UKI's decision and the time taken to reach their decision, Mr A complained. He also said UKI hadn't properly assessed the evidence he'd provided about the accident or sought potential evidence from CCTV about the accident.

UKI partly upheld the complaint. In their final response, issued in February 2025, UKI accepted there had been significant delays in their chasing the third-party insurer to recover the costs of the claim. UKI said they had escalated the matter to their claims department to progress the claim and provide regular updates to Mr A. In recognition of their shortcomings, UKI awarded £400 compensation.

However, UKI maintained their decision to split liability 50/50. They said in the call from Mr A notifying them of the accident, he'd told them he didn't have evidence from independent witnesses or CCTV footage. UKI sent the photographs provided by Mr A to the third-party insurer, but they still disputed liability. And Mr A's family weren't independent witnesses (his sons were also minors at the time of the accident so couldn't be used as witnesses). As the third-party insurer continued to hold Mr A responsible for the accident, UKI considered they wouldn't be successful in recovering the full costs of the claim. So, they'd offered to settle the claim on a 50/50 split. UKI referred to the policy terms and conditions that provided for them to take over and carry out the defence, negotiation or settlement of any claim.

Unhappy at UKI's final response, Mr A complained to this Service. He disputed the decision to split liability 50/50, maintaining the accident was the fault of the third party. He said UKI hadn't investigated the accident properly. Had they done so, from the outset, taking account of his version of the accident, statements from his two sons and other evidence, they would have seen the accident was the fault of the third party. Nor had UKI provided him with their report on the accident or the third party's account of what happened. Nor was it fair for UKI to reach their decision on liability some two years after the accident. UKI's decision affected him financially as his insurance premium would increase.

Our investigator didn't uphold the complaint, concluding UKI didn't need to take any action. The policy terms provided for UKI to decide how to settle a claim, a standard feature in most insurance policies. On the accident, the third-party evidence was brief and contradictory, but the third-party insurer disputed liability, even after UKI sent them the photographs and sketches from Mr A. But where there wasn't independent evidence about an accident, it was likely the claim would have been settled on a 50/50 basis as it would be difficult to prove liability. While UKI hadn't fully investigated the incident, it may not have affected the likely liability outcome. But as UKI accepted, Mr A hadn't been properly informed about progress with the claim. The investigator thought £400 compensation was fair in the circumstances.

Mr A disagreed with the investigator's view and asked that an ombudsman review the complaint. He didn't think £400 compensation adequately reflected the financial impact of UKI's decision to split liability. This included the loss of No Claims Bonus (NCB), having a fault/partial fault claim on his insurance record and the likely future increase in premiums that would result (Mr A estimated this at £1,200 to £1,800). Mr A also referred to a separate decision from this Service where it was found a decision to split liability 50/50 was unfair or unreasonable, the outcome of which was to require the claim to be classified as non-fault and the BCB reinstated. UKI's failure to obtain a timely third party version of events, consider the third party's contradictory version of events and other [potential] evidence undermined the potential for the claim being deemed non-fault.

UKI was also in breach of the Financial Conduct Authority (FCA) Insurance Conduct of Business Sourcebook (ICOBS) requirements to handle his claim promptly and fairly, consider all relevant and available evidence and keep him reasonably informed of progress. He wanted the claim to be re-classified as non-fault on his part, reinstatement of his full NCB and compensation of at least £1,200 to reflect the increases he faced in his premiums due to the fault claim and loss of NCB.

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 UKI have acted fairly towards Mr A.

The key issue in Mr A's complaint is whether it was fair and reasonable for UKI to accept a 50/50 split of liability, when Mr A maintains the third party was at fault. Mr A says UKI should have pressed for the claim to be settled as non-fault in his favour. UKI say the circumstances of the incident mean it was reasonable to settle liability on a 50/50 split as the best outcome possible, in the absence of independent evidence proving Mr A wasn't at fault.
A second issue is the time taken for UKI to assess the claim and decide on liability. The accident occurred in April 2022, but it wasn't until January 2025 until UKI wrote to Mr A to say they were accepting a 50/50 split of liability.

I've considered all the evidence and information available, both from Mr A and from UKI, including Mr A's response to our investigator's view. Having done so, I've concluded UKI didn't act unfairly or unreasonably in settling liability based on a 50/50 split. I know this will be disappointing to Mr A, so I'll set out why I've come to this conclusion.

I've first noted the provisions of the policy giving UKI the ability to settle claims, including the question of liability. Under the *Other conditions you need to know about* section of the policy and a subheading *When we can act on your behalf* there's the following statement:

> *"We're entitled to do either of the following:*
>
> - *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;*
> - *Start legal proceedings in your name, or in the name of any other person covered by this policy. This can be for your benefit or our own benefit."*

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

A key part of Mr A's view the claim should have been settled as non-fault in his favour are the photographs of the accident scene and sketch, as well as the witnesses in his vehicle (including his two sons). And what he says was the third party apologising to the son who was seated in the part of his vehicle affected by the collision.

However, while I know Mr A believes strongly, he wasn't at fault for the accident, there wasn't any independent evidence to support his case. Listening to the first notification of loss call made by Mr A to tell UKI about the incident, the call handler asks Mr A if there were any independent witnesses to what happened or CCTV or dashcam footage. To which Mr A says there wasn't. In any event, the witnesses travelling with Mr A, being members of his family, wouldn't be considered independent (and his sons were minors at the time of the accident). And the absence of any CCTV or dashcam footage, it would come down to Mr A's word against that of the third party. Which would be unlikely to be settled in Mr A's favour should the matter proceed to court.

In these circumstances, the question then is whether UKI acted reasonably in agreeing a 50/50 split of liability. While it isn't my role to determine liability, I don't think it was unreasonable for UKI to conclude the nature of the collision meant a non-fault claim couldn't be maintained in favour of Mr A. Particularly as there was no independent evidence to support either party's version of events. And where the third party appears to maintain Mr A hit their vehicle on the passenger side having moved across.

On the evidence and information I've seen, I've concluded UKI didn't act unfairly or unreasonably in coming to their decision.

Having reached this conclusion, I've then considered the time taken to arrive at this decision. UKI's case notes include reference to their initially considering the photographs of the incident, concluding a 50/50 split of liability was the best outcome likely to be achieved, having been offered by the third-party insurer (September 2023) But then there was a gap of five months during which liability wasn't discussed with either Mr A or the third-party insurer and then a further gap of eleven months until UKI picked up emails from the third-party insurer and confirmed the decision to split liability 50/50 (January 2025).

From this, I've concluded there were significant avoidable delays in UKI confirming their decision to split liability, with long gaps during which there appears to have been little or no activity or progress, nor contact with Mr A. As referred to above, Insurers are required under the FCA rules set out in ICOBS to handle claims promptly and fairly and provide appropriate information on its progress. Given the delays and lack of communication with Mr A, I've concluded UKI didn't meet these requirements in this case, so I don't think this is fair or reasonable and would have caused unnecessary uncertainty for Mr A.

UKI accept their shortcomings in how they progressed the claim, the significant delays and lack of communication with Mr A, leading them to partially uphold his complaint and award £400 compensation. I've considered the circumstances of the case, including the gaps and lack of activity on the claim, concluding Mr A suffered significant avoidable distress and inconvenience, though I don't think it would have affected their decision to split liability.

Having also considered the circumstances in the context of the published guidance from this Service on awards for distress and inconvenience, I think £400 would be fair and reasonable, so I won't be asking UKI to increase their award. But they should now pay the compensation, if they haven't already done so.

Mr A says £400 compensation doesn't adequately compensate him for the financial consequences of their decision to split liability, but as I've concluded their decision wasn't unfair or unreasonable, then I don't think this is relevant. This is also different to the position reached in the previous decision referred to by Mr A, where it was found a decision to split liability 50/50 was unfair or unreasonable.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 29 September 2025.

Paul King
Ombudsman