

The complaint

Mr K's complaint is about the handling of a claim under his commercial motor insurance policy with Nelson Insurance Company Ltd.

What happened

Mr K is a taxi driver. In June 2024, Mr K was involved in an accident with another driver. Mr K said he considered the third party driver was at fault. Mr K said he was stationary in traffic, which was being directed by security at a venue, when the third party hit him from behind.

Nelson contacted the third party's insurer and said it was holding them at fault for the accident. However, the third party said that Mr K changed lanes in front of him; they braked but could not avoid hitting Mr K's car. The third party insurer therefore said Mr K was at fault for the accident. The third party driver provided dashcam footage to support his version of events.

Nelson viewed the footage and at first still contested that the third-party was at fault for the accident, as it said they were driving in a lane with hatching, which did not appear to be a proper lane. However, the footage also showed Mr K had not been stationary and had pulled out in front of the third party driver. After some further communication with the third party insurer, Nelson told Mr K it agreed with the third party insurer that he was at fault.

Mr K disputed this but in November 2024, he called Nelson to say he had been advised by a solicitor that he was at fault and he therefore accepted it should accept liability on his behalf for the accident. Nelson subsequently settled the matter with the third party insurer on the basis that Mr K was at fault for the accident. This meant it recorded the accident as a fault accident on Mr K's insurance.

Mr K is unhappy with this, as the record of the fault claim has affected his premiums. Mr K complained and said he wants the claim recorded as non-fault and his premiums reduced. Mr K also says Nelson should have sent the dashcam footage to him sooner than it did and that it should have taken the matter to court on his behalf.

Nelson does not agree it did anything wrong, so Mr K referred the complaint to us.

One of our Investigators looked into the matter. She did not think Nelson had acted unfairly in agreeing to accept liability and that it was entitled to make that decision, as it had discretion over the claim.

Mr K does to accept the Investigator's assessment, so the matter has been referred to me.

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.

I can see this has been a difficult time for Mr K: his premiums have increased as a result of

the accident claim, which I appreciate has caused him financial difficulty. However, having considered the matter carefully, I do not intend to uphold his complaint. I will explain why.

Every motor policy I am aware of permits the insurer to take over any claim against the policyholder and provides it with discretion as to how the claim is dealt with. Mr K's policy with Nelson is no different. It says the following:

"Claims procedure...

Our rights and your obligations ...

- *We may, at our discretion, take over and conduct in your name or the name of any other person indemnified under this insurance, the defence, prosecution or settlement of any claim for our own benefit.*
- *We shall have full discretion over the conduct of any proceedings and settlement of claims."*

We do not consider this unfair. The insurer indemnifies its policyholders against claims from other parties involved in an accident like in Mr K's case. It is therefore potentially paying out on behalf of the policyholder, so it is fair that the insurer has control of its own funds in this way. However, we do expect insurers to apply such terms fairly and reasonably.

I would point out that insurers like Nelson have no incentive to admit liability on behalf of their policyholder, as doing so means they have to pay out the claim for their own policyholder as well as any third party. Therefore they will only do so if they think, based on their experience and knowledge of handling such claims, including those that do go to court, that continuing to dispute liability would likely not be successful.

It is not for me to determine who was at fault in the accident but whether Nelson has acted fairly and reasonably based on the evidence provided. Having done so, I think it has acted fairly and reasonably in determining that Mr K was at fault for the accident. I will explain why.

When Mr K reported the accident, he said he was stationary. In a later letter Mr K said two lanes of traffic was merging but that the third party was travelling too fast to allow him to merge. In a telephone call with the Investigator Mr K estimated the third party was travelling at 60mph and he was travelling at 30mph. Mr K says the third party's dashcam footage showed they were speeding.

I have watched the dashcam footage of the accident. The dashcam displays the speed that the third party was going. They are shown travelling in a lane with hatching. The third party insurer says that during events this lane is open to normal traffic. I can see other drivers using the hatched lane and there are cones in place to prevent traffic travelling in the opposite direction from crossing into that lane. This does seem to support what the third party has said. However, even if the third party should not have been in that lane, I do not think this means in itself that they were at fault for the accident.

The footage shows that Mr K's vehicle is in a queue of traffic in a lane to the left of the third party; the traffic in this lane is stationary or close to stationary. As the third party approaches, the driver's speed is shown as 33mph and Mr K can then be seen pulling out in front of him. The third party can be seen braking but the vehicles collide.

Having considered all the evidence very carefully, I am satisfied that Nelson acted reasonably in accepting liability for the accident on behalf of Mr K. I say this because the dashcam footage shows Mr K pulled out in front of the third party and, even if the third party should not have been in that lane (which I don't think is the case, for the reasons set out

above), it is incumbent on the driver making a manoeuvre to change lanes to ensure that it is safe to do so. And I do not think there is reliable evidence that the third party driver's speed was such that Mr K was not able to pull out safely.

I have also listened to Mr K's call to Nelson in early November 2024. Mr K told Nelson that he had been advised by a solicitor that he was at fault for the accident. He was asked again and he confirmed to the call-handler that he accepted he was at fault for the June 2024 accident. Following this, Nelson confirmed in December 2024 to the third party insurer that it was no longer contesting liability.

Mr K says there were witnesses that supported his version of events. I haven't seen any witness statements but I think the footage, and Mr K's later admission of liability, is sufficient for Nelson to rely on and it acted reasonably in confirming to the third party insurer that it accepted liability on behalf of Mr K.

Overall, therefore I am not persuaded that Nelson had any obligation to continue to dispute liability and have the issue determined by the court. This also means Nelson was entitled to record it as a fault accident on Mr K's insurance record. I can see no reason it should be required to change this.

Mr K also says that Nelson should have showed him the dashcam footage sooner. Nelson continued to dispute liability for a while, even after seeing the footage, so I do not consider that it would have made any difference to Mr K's position or the outcome of the claim if he had seen it sooner. Mr K may have accepted liability sooner but since accepting liability in the phone call in November 2024, he has effectively retracted that in any event. I do not therefore consider that Nelson did anything wrong by not providing this sooner but even if it should have done so, I do not think there is any action Nelson should take now, or that any award is appropriate.

So, in conclusion despite Mr K's very understandable upset over the matter, I don't consider Nelson did anything wrong in its decision to settle the other driver's claim rather than defend any court proceedings.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 14 August 2025.

Harriet McCarthy
Ombudsman