

## **The complaint**

Mr N complains that Tesco Underwriting Limited unfairly handled a claim under his motor insurance policy.

## **What happened**

The circumstances of this case are well known to both parties, but in summary, Mr N was involved in a road traffic accident in January 2025 and so he raised a claim under his motor insurance policy, underwritten by Tesco. Mr N explained he was exiting a motorway and collided with the rear of a vehicle that didn't have its lights or hazard warning signals on and was parked on the off ramp. Mr N explained this made the third party difficult to see or avoid and due to the hazardous position of the third party vehicle, he shouldn't be considered at fault for the incident. Mr N explained he was able to obtain witness details to support his account and so provided these at the outset. Ultimately, Tesco decided to settle the third party's costs in full and so wrote to Mr N to explain his no claims discount would be affected.

Unhappy with this, Mr N complained to Tesco as he felt it hadn't made reasonable efforts to defend his claim and didn't contact the witness in a timely way. Tesco didn't uphold the complaint and said it managed Mr N's expectations about the possible claim outcome at the outset. It also explained it had put a split liability proposal to the third party insurer but if it didn't accept this, it's unlikely Tesco would look to defend the case in court due to the circumstances of the incident.

As Mr N remained unhappy, he referred his complaint to this Service. Our Investigator didn't uphold the complaint as they were satisfied Tesco had acted fairly and in line with the terms and conditions of the policy. They acknowledged Tesco didn't obtain the witness statement in a reasonable way, but they didn't think this materially impacted the claim outcome.

Mr N disagreed. He said, in summary, that Tesco didn't act in his best interests, and the third party clearly failed to adhere to the Highway Code which supports he wasn't at fault for the accident.

So, the case has been passed to me to decide.

## **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 recognise my summary of Mr N's complaint is less detailed than that presented. But I'd like to assure both parties that I've carefully considered their submissions in full. My decision may not comment on each point raised or on each piece of evidence provided. Instead, I'll comment on the issues I consider to be key. This isn't intended as a discourtesy but reflects the informal nature of our Service – and the rules our Service are expected to adhere to enable me to do this.

While I recognise Mr N will be disappointed with my decision, I don't uphold this complaint. I'll explain why.

I should first set out that it isn't the role of this Service to decide who was responsible for an accident. This is something that can only be determined by a court of law. But relevant industry rules say firms must handle claims promptly and fairly. So I have gone on to consider whether Tesco has done this here, taking into account all available evidence.

The starting point with any insurance claim is the policy terms and conditions as this sets out the basis of cover between an insurer and its policyholder. In this case Mr N's terms state Tesco can carry out the defence or settlement of any claim without the need to refer to its policyholder. This means Tesco can make a decision which its policyholder may not agree with. But any decision it makes must be fair, as required under relevant industry rules. So, Tesco should take into account any relevant evidence supplied in support of the claim.

I've looked at the evidence Mr N provided Tesco in support of his claim. This included his statement of the incident, and once later obtained by Tesco, a witness statement. Tesco concluded the most likely outcome of the claim was that Mr N would be liable for some, if not all the incident. This is because he was in a moving vehicle, and collided with a parked car – and so had a greater duty of care to ensure his path was clear.

I've thought about whether Tesco's decision to settle the third party's claim in full is fair here based on the evidence provided. And I think it is given the circumstances of the accident. I can see Tesco considered its likelihood of being able to defend the claim in the courts and found the prospects of success were low. However, given Mr N's position that the third party driver was in a hazardous position, Tesco did propose a split liability decision which was rejected by the third party's insurer. So based on the prospects of success, it made the decision to settle the claim in full – which is something Tesco can do under the terms of the policy.

Tesco is entitled to make a commercial judgment on whether it wishes to take the matter to the courts. And it will make this decision based on what it considers its likelihood is of being able to successfully defend the case. Courts expect parties to use their time efficiently and appropriately. And I don't find it unreasonable for Tesco to conclude this case isn't a worthwhile use of the court's resources or conclude it wouldn't be cost effective – given the circumstances of the incident and the low prospects of Tesco being able to recover its costs.

I think it would also be helpful to explain that, while insurers typically refer to claims as "fault" or "non-fault", the actual terminology is "no claim bonus allowed" or "bonus disallowed". The term "fault" isn't to suggest Tesco has found Mr N to be at fault for the incident but reflects that Tesco has been unable to recover its outlay from another party, such as a third party insurer.

I recognise Tesco failed to obtain the witness statement promptly. So, I have gone on to think about whether this materially impacted the claim outcome. Having done so, I don't think it has. I say this as given the circumstances of the incident, it is unlikely Mr N would be able to avoid all liability. So, the best case would be some form of split liability – which is what Tesco attempted to agree with the third party insurer. The impact of this would likely be similar to Tesco accepting full liability, as the claim would still be recorded to reflect that Tesco had been unable to recover all its costs. So, I'm satisfied, on balance, that Tesco has reached its decision fairly, and in line with the terms of the policy.

I recognise the circumstances of the claim were particularly upsetting for Mr N. However, I need to decide, based on the facts presented to me, whether Tesco has acted fairly here.

And for the reasons I have set out above, I think it has. And so, it follows that I won't be directing Tesco to take any further action here.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 9 January 2026.

Oliver Collins  
**Ombudsman**