

The complaint

Mr S complains about U K Insurance Limited (UKI) assigning 100% liability for an accident in which he was involved, which Mr S says should be 50/50% split of liability. Mr S wanted to pursue the matter in court, using the legal cover section of his policy, but UKI declined.

References to UKI in this decision include their agents.

What happened

In May 2024 Mr S was involved in an accident, in a school car park. Mr S said he was driving in the car park when the third party approached in the middle of the road. The third-party vehicle swerved to the left and their rear bumper caught the front bumper of Mr S's vehicle. However, the third party's version of events was that Mr S turned across their path.

Initially, UKI thought liability should be split 50/50% but the third-party insurer, in April 2025, produced an independent witness statement that said Mr S was at fault for the collision. UKI considered the witness statement and concluded they had to accept 100% liability of the part of Mr S for the accident.

Mr S strongly disputed there had been a witness present of the time of the accident and so couldn't have provided a genuine statement. He remained unhappy at UKI's decision to deem him 100% liable for the accident, so he complained.

In their final response, issued in June 2025, UKI didn't uphold the complaint. They acknowledged Mr S felt the witness in the case wasn't genuine. While there wasn't any CCTV or dashcam footage available to assist with the question of liability, the other party had provided an independent witness statement.

As Mr S questioned whether the witness was independent, the UKI claim handler contacted the solicitors representing the other party to request the witness contact details so they could be interviewed by a UKI claims investigator. The solicitor provided the details with the consent of the witness, who was happy to provide a legally sworn statement on what they saw (that Mr S turned across the path of the other vehicle). While Mr S refused to accept the witness could have seen the incident and as genuine, there was no evidence to support his view. UKI referred the matter to their validation team for a deeper check of whether there were any concerns with the witness. Unless this indicated any concerns about the witness, UKI would be dealing with the claim on the basis of 100% fault on the part of Mr S. UKI acknowledged Mr S wanted to use the legal cover section of his policy to defend his position, but UKI noted the policy gave them the right to deal with any claims as they saw fit, and didn't need Mr S's agreement.

Mr S then complained to this Service, saying there was no witness at the scene at the time of the accident (the only other person present was his son) and had there been, they would have had to have been very close by. And the damage to the two vehicles referred to in the witness statement didn't correspond to the damage Mr S said had happened.

Our investigator didn't uphold the complaint UKI considered the statement provided by the witness and had also interviewed them. In the absence of any other evidence or information,

UKI based their decision (to accept 100% liability) on the information available. UKI had considered the independence and credibility of the witness, concluding they were reliable. Having reached their decision on liability on all the information available UKI were also entitled to decline to pursue the matter further, including through the legal cover section of the policy, if they didn't consider they had a reasonable chance of success. UKI had the power to 'take over and carry out the negotiation, defence or settlement of any claim in Mr S's name'.

Mr S disagreed with the investigator's view and requested that an Ombudsman review the complaint. He continued to challenge the presence of an independent witness and their testimony and the accuracy of what they claim to have seen from what would have been a distance of 150 yards. He also questioned the veracity of personal injury claims from the third party.

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 S.

The key issue in the complaint is UKI's decision to assign 100% liability for the claim against Mr S, who maintains it should be 50/50% at most. UKI based their decision, in large part, on an independent witness statement. Mr S disputes the presence of the witness and their version of the accident.

Considering the issue of liability, I recognise Mr S feels very strongly the accident wasn't 100% his fault and says there was no witness around at the scene when the accident occurred. He also questions the length of time taken for the witness statement to be provided. UKI have provided evidence of their discussion with the witness, from which they concluded they were credible, had a clear recollection of the incident and offered an opinion that Mrs S was at fault, saying Mr S turned left and crossed into the path of the other vehicle.

It's also important to note it isn't the role of this Service to determine liability for an accident, but to conclude whether an insurer has acted fairly and reasonably in reaching a liability decision.

The terms of Mr S's policy with UKI, as they do in motor insurance policies generally, provide for UKI to assess claims and determine liability ('subrogated rights'). The relevant wording is set out in the *Other Conditions* section of the policy, under a sub-heading *When we can act on your behalf*, as follows:

"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 connected to this policy. This can be for your benefit or our own benefit."*

I've then considered UKI's decision and the rationale for deeming liability to be full, so settling the third-party claims.

UKI considered the issue of liability, initially determining it to be 50/50. But the third-party insurer produced an independent witness statement that said they considered Mr S was

responsible for the accident. Recognising Mr S belief there wasn't as independent witness, they interviewed the witness and concluded they were credible and, should the matter go to court, would provide clear evidence that Mr S was responsible for the accident. As with our role being not to determine liability, but to assess whether UKI have acted in doing so, it also isn't my role to assess the credibility of the witness. That would be for UKI, and I can see they pursued the point and interviewed the witness before coming to their conclusion.

Part of any insurer's decision making on liability would involve assessing the chances of success should the issue go to court. Here, I can see UKI concluded that on the evidence and information available, they wouldn't be able to defend their position in court, particularly in the light of the independent witness.

Mr S also says UKI should have pursued the matter to court through the legal cover section of the policy. However, it's for UKI to determine whether to do that, bearing in mind their decision on liability. And the wording of the legal cover section of the policy also makes it clear it would only be considered where the chances of legal action would be greater than 50/50. In this case, as UKI had assessed they couldn't defend their position, then this threshold would have been met and therefore they wouldn't pursue the issue through legal action. And the wording of the policy terms set out earlier also give UKI the power to decide whether to take legal proceedings.

So, I've concluded it wasn't unfair or unreasonable for UKI to have reached their decision to deem the claim to be fault and Mr S 100% liable. Nor was it unfair or unreasonable to decide not to pursue the matter through the legal cover section of the policy.

Taking all these points into account, I don't think UKI have acted unfairly or unreasonably in the circumstances of this case, so I won't be asking them to do anything further.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 3 March 2026.

Paul King
Ombudsman