

The complaint

Miss T complains that Advantage Insurance Company Limited unfairly found her liable for an accident she doesn't think was her fault.

Miss T's policy is branded in the name of the insurance intermediary that administers it. But Advantage is the policy underwriter so it is responsible for claims decisions and responding to complaints about those. So I will only refer to it within this decision.

What happened

Miss T's car came together with another on a roundabout. Both drivers blamed each other. Advantage didn't think it could defend Miss T's position. So it held her at fault for the accident. Miss T didn't agree and complained. Advantage didn't uphold it.

Miss T brought her complaint to the Financial Ombudsman Service. One of our Investigators looked into it. He didn't think Advantage had dealt with Miss T fairly. So he said Advantage should record the claim as 50/50 shared liability and restore Miss T to the position she'd have been in if it had arrived at that outcome from the outset. He also said Advantage should pay Miss T £100 compensation for her distress and inconvenience.

Miss T accepted our Investigator's complaint assessment but Advantage didn't. So the matter was passed to me to decide.

Provisional decision

On 26 November 2025 I issued a provisional decision. For ease of reference I've copied the relevant extracts below. I said:

"I'll explain that it isn't the role of the Financial Ombudsman Service to decide liability for an accident. Ultimately that's a matter for the courts. Rather than deciding liability my role is to look to see if insurers have acted in a fair and reasonable way.

Advantage, like most motor insurers, has a clause in its policy that allows it to settle claims as it sees fit. This gives it the right to decide who it believes is liable for a claim, whether that liability should be full or shared or indeed whether or not the matter should be decided in court. But we look to ensure that insurers act fairly in deciding whether to settle matters and make a reasonable assessment of the claim – based on a clear understanding of the evidence and circumstances surrounding the accident. With this in mind, I have carefully considered how Advantage handled Miss T's claim.

Miss T said that she was established on a roundabout and taking the first exit on her left when the third party driver tried to overtake her and their cars came together. In contrast the third party said he was established on the roundabout, going straight ahead (taking the second exit) when Miss T drove into the side of his car.

There was no dash cam or other video footage and no independent witnesses to the accident. However, the damage to Miss T's car was generally to the front right of her car, including damage to the bumper the headlight and the wheel arch. The damage to the third party's car was on his rear passenger door and rear wheel arch.

Advantage said it considered both drivers' versions of events, online maps, The Highway Code and the images of the damage to the cars. Having done so it concluded that Miss T had failed to give priority to the third party driver approaching from the right. So it

considered that she would be found liable for the accident if the case proceeded to court. As a result it accepted liability on her behalf.

Miss T doesn't agree with Advantage's conclusions. But having considered all the evidence, I don't think it has dealt with Miss T unfairly. I've noted that, when responding to her complaint, Advantage told Miss T that she was "entering" the roundabout, when her evidence is that she was actually on the roundabout. But, while it could have described the circumstances more clearly, I don't think that means it failed to understand what happened or what each driver was alleging. Given that both drivers said they were established on the roundabout, and the cars clearly came together on the roundabout, then I think Advantage was aware where the accident took place.

Further from looking at maps of the location the third party would have had to travel some way across the roundabout to get to Miss T's position, whereas for Miss T that would have been a fairly short distance. So that would indicate that the third party was most likely already on the roundabout when Miss T joined it. And, as The Highway Code requires drivers to give way to traffic approaching from the right, the evidence indicates that Miss T didn't do this.

Also the damage to the cars indicates that Miss T's front bumper, headlamp and wheel arch struck the third party's car's passenger side towards its rear. That indicates that the third party's car was likely already in front of Miss T's car when they came together. I'm aware that Miss T's car also had some damage to its rear wheel arch. But Miss T told Advantage that was caused by her car scraping against railings and did not happen in contact with the third party's car. So the damage to the cars would be consistent with the third party already being on the roundabout when Miss T joined it. And, as the third party was approaching from Miss T's right he would have had right of way.

In those circumstances I think Advantage's decision to find Miss T liable was fair. It considered all of the relevant evidence and I can't see that it made any obvious mistakes or treated Miss T unfairly when doing so. So I don't think it would be reasonable for me to interfere with its liability decision when that's not my role.

Further, generally, it's not in an insurer's interests to admit liability in a situation where it thinks that it could defend it for its policyholder. But I also wouldn't expect an insurer to continue to defend a claim that it felt it had no reasonable prospect of success in doing so. I note our Investigator believed that Advantage should have offered a 50/50 split liability settlement. But Advantage said that it didn't believe it had reasonable grounds on which to do that. So it didn't think the third party would accept such an offer. And it's worth noting that Advantage has the experience of dealing with numerous such claims and an understanding of what the likely outcome of them would be if the matter went to court. So, in the circumstances I don't find it unreasonable that it didn't offer a split liability settlement.

It follows that I'm not minded to instruct Advantage to take further action.

I also think it's worth pointing out that a split liability settlement would not have changed how the claim would be recorded. Claims are generally recorded as 'fault' (no claims discount affected) or 'non-fault' (no claims discount allowed). With a split liability decision being recorded as a 'fault' claim in the same manner that a claim where the policyholder is found to be 100% liable will be. So whether Advantage said Miss T was 100% or 50% liable, the claim would be recorded as a fault claim."

Developments

Miss T didn't agree with my provisional decision. She made a number of points in response. I don't intend to summarise all of those here. Instead I will focus on what I see as being her key arguments.

In summary she essentially repeated her version of events. She added that her car was fitted with a "black box" – telematics device – which showed a notification of "hard breaking"

as she tried to stop as the third party attempted to overtake her. She said that neither Advantage nor I have examined this.

Miss T also remarked that the damage comparison between the two cars hadn't been considered. She said the fact her car suffered greater damage than the third party's was indicative of his speed. Miss T further commented that she had been injured in the accident and provided supporting medical evidence of that. She said this also was indicative of the third party's speed.

In addition Miss T said that the third party had refused to give her his details at the scene.

Miss T also said that Advantage made a liability decision within six days. She thinks this proves that no proper investigation took place. She said this may have put her at a disadvantage as more evidence at the scene might have been discovered.

Further Miss T said she told Advantage that she felt discriminated against due to her age, length of holding a driving license, gender, the car she drives and ethnicity.

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.

Many of the points Miss T has made in response to my provisional decision are things I'd already considered when making that decision. But for completeness, I'll address some of her key points here.

Miss T said she thoroughly checked to her right before making her turn. But the third party approached her at "accelerated speed", which Advantage did not investigate. I accept Miss T's evidence that she didn't see the third party before making her turn, but, in my opinion, that is not evidence which in itself calls into question Advantage's liability decision.

Advantage had previously explained to Miss T that she had no actual evidence of what speed the third party was driving at. Again, there is no CCTV or dash cam footage that might give an indication of this. And there is nothing within the medical evidence Miss T supplied that demonstrates her injuries were caused by the third party's speed or that the speed was excessive.

Similarly, the damage comparison between the two cars does not indicate that the third party was driving at a speed that wasn't appropriate for the road conditions. Also at the point the cars collided, Miss T had travelled a short distance from entering the roundabout. In contrast the third party had travelled a considerable distance further. So, it's likely he would have accelerated to a higher road speed simply because of the distance he had travelled. But the fact he was most likely driving more quickly than Miss T does not, in my opinion, mean Advantage's decision was unfair or unreasonable, especially given the other factors it took into account.

Further, I'll accept Miss T's evidence that her "black box" showed a hard breaking event. But, I don't think that's unusual where two cars collided. I'm not persuaded it's evidence that the third party was driving too fast or in a manner not reasonable for the road conditions.

I think it's worth repeating that the damage to Miss T's car included damage to her bonnet and front grille, as well as the area around and underneath her headlight. The damage wasn't limited to the driver side of her car. And the damage to the third party's car began from his rear passenger door. It's apparent that Advantage interpreted this to mean that Miss T's car had driven into the side of the third party's car as it went past while exiting the roundabout. And in order for the two cars to have been in those positions, relative to where they entered the roundabout, then it seems more likely than not, that the third party was already established on the roundabout before Miss T joined it.

Miss T also told Advantage that the third party had refused to give her his details at the scene. However, while those actions might be unusual, they are not evidence that he was in any way liable for the incident. And given that he reported the incident to his insurer promptly, I don't think he disadvantaged Miss T here.

It's also apparent that Miss T believes Advantage reached its liability decision too quickly. She thinks that further investigation might have uncovered evidence that supported her position.

It's not entirely clear to me what other steps Miss T believes Advantage should have taken. There was no dash cam, CCTV or third party witness evidence. But Advantage did consider: both drivers' versions of events, photographs from the scene, the areas of damage to both cars, online maps and images showing the road layout, the relevant sections of The Highway Code and the appropriate case law, which required Miss T to give way to traffic approaching from her right. And having done so Advantage concluded that Miss T was liable for the incident. Given the evidence, I think that was a reasonable conclusion. Further, I've seen no other evidence beyond Miss T's comments that persuade me it arrived at that position too quickly or without carrying out sufficient investigation.

Also, Miss T said she feels discriminated against. I note she hasn't provided any evidence of a specific incident or document that demonstrates such discrimination. So I've examined very carefully all the evidence to see if I could find anything to substantiate Miss T's position here. But I found no evidence whatsoever of Advantage treating Miss T less favourably because of any of her personal characteristics or situation.

I'll add that in a scenario like this, where both drivers blame each other for an incident, insurers like Advantage need to make a decision on which evidence they find the most persuasive. And in those circumstances it's always likely that the party found liable or largely liable will be disappointed with the insurer's decision. But that doesn't, in itself mean the decision was unfair or unreasonable or that the insurer has been biased in their decision making.

My final decision

For the reasons set out above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 9 January 2026.

Joe Scott
Ombudsman