

## **complaint**

Mr L complains about the way U K Insurance Limited (UKI) proposes to settle a claim on his car insurance policy.

## **background**

Mr L says he saw a motorcycle skid in poor weather and road conditions. The motorcyclist came off his bike. The motorcyclist's insurer got in touch with UKI soon afterwards, to make a claim on Mr L's policy. They said the motorcyclist had reported that Mr L caused the incident by failing to give way at a roundabout.

Mr L said that's not what happened; he had stopped at the roundabout. He also said the police were called and they'd confirmed there was no impact between his car and the motorcycle. There was no other evidence, such as witnesses, to support either party's version of events. UKI decided that the claim should be settled on a split liability basis – each party being 50% to blame. Mr L is unhappy with that decision. He feels it's unfair because he didn't do anything wrong.

Our investigator thought UKI had handled the claim fairly given that this was essentially one driver's word against another's. Mr L didn't accept that conclusion. He felt a 50/50 outcome implied some fault on his part, and he was concerned it would affect his insurance premiums.

## **my findings**

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 that Mr L is frustrated at UKI's decision, because he feels he wasn't at fault. I recognise as well that this is likely to affect his insurance premiums. Nonetheless, I find I can't fairly tell UKI to treat this claim any differently. I'll explain why.

All motor insurance claims are initially recorded as 'fault' claims. This doesn't always mean the insurer thinks its policyholder was to blame. A claim will only be recorded as 'non-fault' if the insurer recovers its costs in full from the other party. Insurers may decide to take the other driver to court in order to decide liability, but they aren't required to do so.

Under the terms of Mr L's policy, UKI is entitled to settle a claim as it sees fit. I won't interfere with that, as long as it has done so in a fair and reasonable way.

There were no witnesses to the incident in question here, and the motorcyclist says Mr L pulled out onto the roundabout in his path. The police did attend, and UKI's records satisfy me that it asked the police for their report – but the police didn't produce one so couldn't give it to UKI.

I think the reality is that without an independent witness or report, UKI had little hope of defending the third-party claim in its entirety. And it's not unusual for this sort of case to be decided in court on a 50/50 basis.

UKI has now made the offer of a 50/50 settlement to the motorcyclist's insurer. It has done so without admitting liability, which means Mr L can pursue the matter at his own cost if he wishes. I think this was reasonable.

UKI says the motorcyclist has claimed for personal injury, but Mr L has said he seemed to be fine after the incident. No decision has been made yet on the cost of the claim, but UKI has said it would want expert medical evidence to support a personal injury claim. That's what I'd expect in the circumstances, and I think UKI has taken a fair approach.

Mr L has cover for legal costs with his UKI policy. There is an argument that he should be able to use this cover in order to take the third party to court. But, as is the case with most legal expenses insurance, no cover is provided when there aren't reasonable prospects of success – which there don't seem to be here. UKI has also pointed out that Mr L has told it he doesn't want to have to go to court over this.

For these reasons, I'm satisfied that UKI has treated Mr L fairly by proposing to settle the claim on a 50/50 basis at this stage.

### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 24 July 2017.

Janet Millington  
**ombudsman**