

The complaint

Mr M says that when his new car was written-off, Advantage Insurance Company Limited should have ensured he could buy an equivalent new one, in line with the terms and conditions of his motor insurance policy.

What happened

I won't repeat all the facts here – as they are well known to the parties, I'll focus on the central issues. In essence, Mr M's car was less than a year old, but Advantage said the requirement set out in the policy for it to provide him with a new car wasn't met, as there was a long waiting list for equivalent cars. It offered him the purchase price of the written-off car instead. Mr M said that sum was around £9,000 short of the cost of a new one - and that the policy didn't say a new car would only be an option if there wasn't a waiting list.

One of our investigators concluded that Advantage should have paid Mr M the price of a new car in 2022, otherwise it meant he lost out and Advantage benefited from the lack of immediate availability of new cars. She thought it should have checked with Mr M whether he was happy to wait, and she said it should pay him £150 for distress and inconvenience.

As Advantage disagreed, the complaint was passed to me for review. I issued a provisional decision, upholding Mr M's complaint, along the following lines:

- I said we think it's important for insurers to make any restrictions or limitations clear in the policy. In this case there was nothing to say the new car option wouldn't apply if a replacement car wasn't immediately available
- I pointed out that our view is that insurers shouldn't benefit from the market conditions caused by the pandemic (to the detriment of consumers) which led to new cars not being as readily available as previously
- I said I thought it would be fair and reasonable for Advantage to pay Mr M the difference between the sum it had paid him and the cost of a new car. I noted that in 2022, the difference was around £9,000 more than Mr M was paid. But I thought he'd shown the price had risen, so the difference was now around £15,000 more than he was paid. I thought Advantage should pay Mr M that sum, plus £150 for distress and inconvenience, to cover his loss of expectation, his inconvenience, and its failure to discuss some issues with him, including those that arose about finance and hire

I asked the parties to comment on my provisional findings. Mr M accepted them, and Advantage didn't comment.

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.

As neither party objected to my provisional findings, there's no basis on which to depart from

them. So, for the reasons set out briefly above – and in my provisional decision - my final decision is that I uphold this complaint. I think Advantage should put matters right for Mr M in the way I've already proposed.

My final decision

My final decision is that I require Advantage Insurance Company Limited to pay Mr M £150 for distress and inconvenience. Subject to evidence from a dealership garage, it should also pay Mr M the difference between the sum it paid him in settlement and the sum needed to order / buy a like-for like replacement new car.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 August 2023.

Susan Ewins

Ombudsman