

The complaint

Mr D complains that Itc Compliance Limited (“ITC”) arranged a Guaranteed Asset Protection (“GAP”) policy in his name even though he wasn’t buying a car.

The policy was sold by an appointed representative of ITC. As ITC are accountable for the actions of the agent, any reference to ITC includes the actions of the agent.

Mr D’s complaint has been brought by a representative. But, for ease of reference, I will refer to any actions taken, or comments made, by either Mr D or the representative as “Mr D” throughout the decision.

What happened

Mr D says he went with his partner to a garage to buy a car. He says his partner bought the car and paid a deposit of £250. Mr D says this included a GAP policy which the garage sold as an appointed representative of ITC. He says all paperwork was in his partner’s name. Mr D says, later in the year, his partner was involved in an accident which led to her motor insurer writing off the car. He says his partner contacted the GAP insurer, but they informed her the policy was in Mr D’s name. Mr D queried this with ITC, and they sent him paperwork showing he had signed the car order form and agreement. Mr D complained to ITC and said he didn’t sign any paperwork and the signature isn’t his. He also said the documents had been altered by replacing his partner’s name with his name.

ITC responded and explained the car and GAP policy was bought by Mr D. They said Mr D and his partner agreed to buy a car and an order form was raised in Mr D’s partner’s name – and a deposit of £250 was paid. They explained the original order was then changed a few days later on Mr D’s request, into his own name. ITC said all relevant documents listed Mr D as the buyer. They also explained Mr D’s claim under his GAP insurance was declined as he didn’t adhere to key eligibility criteria requiring him to have fully comprehensive insurance.

Mr D referred his complaint to our service as he says his partner bought the car and the GAP insurance should’ve been in her name. He refers to the order form and deposit receipt in his partner’s name and says this proves the car wasn’t bought in his name, and ITC have made an error in taking out the GAP insurance in his name.

Our investigator looked into things for Mr D. He thought ITC hadn’t made an error in arranging the policy. Mr D disagreed so the matter has come to me for a decision.

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.

Having done so, I’ve decided not to uphold the complaint. I understand Mr D will be disappointed by this but I’ll explain why I have made this decision.

I think it's important to firstly make clear the role of various parties in insurance. When taking out insurance, a customer will often communicate with an insurance intermediary who is responsible for arranging, selling and administering the policy – often this will be a broker. In this case, the broker is ITC. The insurer is the business which underwrites the GAP policy and is responsible for making a decision on any claim. So, while the GAP insurer has declined the claim, my decision here focuses only on the actions of ITC in selling the policy.

The key dispute here relates to the sales process and who bought the car and GAP policy. So, I've considered all the evidence and decided, on the balance of probabilities, what I believe more likely than not has happened here. Mr D has provided information which shows an order form and deposit receipt in his partner's name dated 13 January 2022. There's no dispute between the parties that these documents were prepared for Mr D's partner to buy the car. ITC say the situation changed a few days later when Mr D decided to buy the car in his name and amended documents were prepared for this. They've provided a copy of a deposit receipt dated 17 January in Mr D's name.

ITC have also provided a 'demands and needs' document dated 17 January, and this contains Mr D's details. This document contains a heading which says, 'Summary of discussions to enable an informed buying decision'. It goes further to say, *"During discussions we asked a number of questions and provided various information relating to the insurance products we are able to offer. Details of our questions, your responses and the products that we believe may be suitable for your needs are recorded below...It is important that you review this information...to ensure the answers accurately reflect your responses and that any policies offered meet your ongoing needs."*

The questions contain responses which includes Mr D's personal details, details of the car and finance information. There's a list of suitability questions which have also been considered and answered and specific questions about the GAP insurance policy. I think it's important here to note, a 'demands and needs' document is prepared for the purpose of understanding a customer's requirements, and then assessing the customer's eligibility and the policy's suitability. In this case, this has been done in relation to the GAP policy – and it's in Mr D's name.

ITC have also provided a copy of an order form – in Mr D's name - which contains a signature and is dated 22 January. There's no dispute between the parties that the garage arranged finance in Mr D's name for the sum of £4,828. ITC have provided a copy of the finance agreement and I can see this contains details of the car, is for the sum of £4,828, and the credit has been taken out in Mr D's name. The finance agreement contains a typed signature for Mr D and is dated 22 January.

The information shows a number of documents which all support ITC's account that the car and policy was bought by Mr D. The documents, when looked at together, not only provide a contemporaneous account of the sale process, but also forms a chain showing the full sale process. For example, they show a deposit being paid on the same day the 'demands and needs' document is assessed, and then an order form is signed, and the finance is arranged on the same day. Taking all the information into account, I'm persuaded ITC haven't made an error in taking out the GAP policy in Mr D's name.

I do acknowledge Mr D's points about the order form and deposit receipt in his partner's name. But I'm persuaded by ITC's account that these documents were processed following the original instruction that his partner would be buying the car – so I would expect to see these documents in his partner's name. But I believe the instructions then changed. I'm particularly persuaded this is the case because, as mentioned above, the chronology of events set out by ITC is supported by the dates on the relevant documents. And, apart from the order form and deposit information, I haven't seen any other contemporaneous evidence

which shows any other arrangements were made in Mr D's partner's name – such as the 'demands and needs' assessment.

I note Mr D says the signature on the order form isn't his. I understand he believes this has been forged. I do acknowledge Mr D's concern, but I don't believe the evidence supports this. As mentioned above, the combination of all documents in Mr D's name, together with how they all fit in the chronology of the sale process, persuades me it's more likely than not ITC were acting on instructions for Mr D to be the buyer of the car and GAP policy. Given that this order form isn't inconsistent with other arrangements which were made during the sale process, I can't say the evidence supports a finding that Mr D didn't sign the order form. Mr D also points out that the date of birth showing on this order form isn't his but is his partner's date of birth. I agree with Mr D's point here, but I don't believe this suggests the document has been altered without Mr D's knowledge. ITC explain the buyer details were amended on their system to produce an amended order form, so it appears the date of birth not being amended was an oversight. This does appear to be an error, but it doesn't change my view that ITC didn't make an error in arranging the GAP policy in Mr D's name.

Mr D says the car is registered in his partner's name, so it shows the car was bought in her name. ITC say they don't tax used cars for customers – they say this is arranged by customers so they can choose what name a car is registered to. They say the V5C logbook isn't proof of ownership – and just shows the details of the registered keeper. I do acknowledge Mr D's points here, but the V5C logbook shows who the registered keeper is of the car. And it does make it clear that the document isn't proof of ownership. So, I don't believe the car being registered in Mr D's partner's name demonstrates ITC made an error in arranging the GAP insurance in Mr D's name.

I understand Mr D will be disappointed, and I acknowledge he's been left frustrated after the GAP insurer declined the claim. But, in this complaint, I'm only looking at the actions of ITC in arranging the policy. And for the reasons mentioned above, I can't say they've made an error. I wish to reassure Mr D I've read and considered everything he has sent in, but if I haven't mentioned a particular point or piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel I need to reference it to explain my decision. This isn't intended as a discourtesy and is a reflection of the informal nature of our service.

My final decision

For the reasons I have given, it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 2 October 2023.

Paviter Dhaddy
Ombudsman