

## **The complaint**

Mr W complains Advantage Insurance Company Limited unfairly settled a motor insurance claim as him being at fault.

## **What happened**

In August 2022 Mr W, when driving his car, was involved in a collision with a third-party. His car suffered minor damage. The third-party's was worse off. Some months later, his motor insurer, Advantage, advised him the claim had been settled with him as at 'fault'. It explained it had covered the costs of the third-party's repairs.

Mr W's unhappy about that decision – and Advantage's process for coming to it. In response to his complaint it said it he had previously confirmed the claim was considered a fault accident and it would be dealing with the third-party's claim. It said it had dealt with the claim in line with the evidence provided.

Mr W wasn't satisfied so came to his service. He feels it's unfair that the claim's been settled as him being at fault. He says this has caused him to pay more for his motor insurance. To resolve his complaint he would like the fault record to be removed.

Our Investigator felt Advantage had acted fairly when settling the claim. So he didn't recommend it do anything differently. Mr W didn't accept that outcome. He requested an Ombudsman consider the complaint.

## **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 this is an informal service I'm not going to respond here to every point or piece of evidence Mr W and Advantage have provided. Instead I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything provided.

This service doesn't decide who's at fault for an incident. That's the role of the courts. Instead, we look at whether the insurer acted in line with the policy terms and made a fair and reasonable decision. Mr W's policy terms allow Advantage to defend or settle any claim on his behalf. That means it might make a decision he disagrees with, but the policy allows it to do so. But I can consider if its decision to do so was reasonable.

Mr W wants Advantage to remove the fault record. For me to require it to do that, or to compensate him for unfairly having such a record, I'd need to be persuaded of a few things.

First, I'd need to agree Advantage shouldn't have accepted liability but instead made greater effort to defend the claim from the third-party. Second, I'd need to be persuaded, if it had, it would have likely achieved a different claim outcome – for example the third-party accepting

split liability or full liability or alternatively a court ruling in Mr W's favour. Whilst I accept its possible he wasn't at fault, I haven't seen enough to persuade me of either.

I haven't been provided with Mr W's initial description of the incident to Advantage. But I have read his more recent account. I've also seen the third-party's description of the circumstances. I've also considered the photos provided by Mr W.

Importantly Mr W, in a call with Advantage within a few days of the incident, accepted its position that it considered him to be at fault for the claim. After it had explained that his response was that he had expected it. I'm satisfied he understood what was being explained.

So Mr W, in the days after the incident, seemed to accept being at fault. With that in mind, and the third-party also arguing he was at fault, I can't reasonably say Advantage should have done more to defend him – or that if it had a different outcome on the liability would likely have been achieved.

Mr W's referred to different phone calls with Advantage. I haven't requested those. I think it's unlikely doing so would make a difference to the outcome of this complaint. Essentially, he seemed to accept being liable for the incident in the early days of the claim. I think it's unlikely the other calls would provide enough for me to say Advantage's decision not to defend the claim was unreasonable.

Finally Mr W's asked about CCTV footage of the incident. I'm not aware of any. I haven't been told there was a camera in the relevant location. So I can't say Advantage acted unreasonably by failing to request footage.

Having considered everything, I'm satisfied Advantage acted in line with the policy terms. I can't say its decision to settle the claim was unfair or unreasonable. So I'm not going to require it to amend any records or to do anything differently.

### **My final decision**

For the reasons given above, I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 19 December 2023.

Daniel Martin  
**Ombudsman**