

The complaint

Mrs M complains about how Advantage Insurance Company Limited handled a claim she made under her motor insurance policy. She's also unhappy with the service provided.

What happened

The details of the claim are well known to both parties, so I won't repeat them again here. Instead, I'll summarise the background.

Mrs M was in a car accident in February 2023. The third party made a claim through their insurer to Advantage and so it contacted Mrs M for information about the accident. Mrs M said she was slowly reversing out of a parking space in a carpark and a car hit the back of her car. She explained she'd initially assumed it was her fault. However, on reflection, it was the third party's fast and aggressive driving which was the cause. Advantage was also given the third party's version which stated they were proceeding correctly when Mrs M reversed out the parking space into their vehicle and it was Mrs M who was at fault.

Advantage accepted liability for the claim and Mrs M isn't happy with this. In summary, she doesn't agree it follows simply because she was reversing the accident was her fault. The other driver also owed her a duty of care and he was in breach of that duty whereas she wasn't. She feels her photographs of the damage support this. Further, Mrs M says Advantage originally told her it wasn't accepting liability as it as believed the claim was fraudulent. Then, some weeks later and without explanation, it wrote to her to say it was going to accept full responsibility. Mrs M also says the service of Advantage has fallen below that which she was entitled to expect with statements being contradicted and questions left unanswered. This has caused her unnecessary distress.

In responding to Mrs M's complaint, Advantage explained due to the dispute of who was at fault and lack of independent evidence, it obtained a damage consistency report by an independent engineer. That report supported the third party's version of events. Further, it also took into account the Highway Code and confirmed it'd investigated the claim extensively due to the injury claim that was presented, and no evidence was found to support not accepting the liability or injury claim. It therefore settled the claim.

Mrs M wasn't happy with this and came to this service for an independent review.

The Investigator looked into matters and didn't uphold Mrs M's complaint. They explained Advantage was entitled to settle the claim as it saw fit, in accordance with the policy terms. And they hadn't seen any evidence to show the decision taken by Advantage to accept liability for the claim was unfair.

Mrs M disagreed so this matter has now been passed 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.

I recognise I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this and it reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I've given careful consideration to all of the submissions made before arriving at my decision and I'm satisfied I don't need to comment on every individual argument to be able to reach what I consider to be a fair outcome.

Having done so, I'm satisfied the Investigator reached a fair outcome here. So, I don't uphold Mrs M's complaint in this matter. I'll explain why.

Firstly, I acknowledge Mrs M has strong views about what happened in the accident. But it's not the role of this Service to determine who is responsible for an accident – decisions on this are best dealt with by a court of law.

What I'm deciding in this matter is whether Advantage has acted in accordance with the terms and conditions of the policy which set out the agreement between the parties. And I'm satisfied it did. I say this because the terms allow Advantage to conduct and settle a claim as it sees fit. It therefore doesn't need Mrs M's approval of any decision to admit liability, settle a claim or make a payment to a third party. That might mean it makes a decision the policyholder disagrees with, as has happened here.

I have, however, gone on to consider whether Advantage made a reasonable decision in settling the claim as it did, based on the evidence it had and the circumstances of the case.

Advantage explained it accepted liability for the third party's claim on Mrs M's policy based on the vehicles' damage, what each party said and the damage consistency report. Having taken this into account, along with the Highway Code, it decided Mrs M was responsible for the accident as the reversing party with the third party established on the road. It also considered its expertise and experience in insurance claims which will have included how courts view such matters and the likelihood of success in pursuing a legal case. Whilst Mrs M doesn't agree with the decision it has made, I'm satisfied Advantage took into account all available evidence and ultimately accepted liability to limit the prospect of costs increasing if the third party took the matter to court. Taking everything into account, I'm not persuaded Advantage was acting unfairly or unreasonably when it did this.

Mrs M says neither vehicle was inspected, and her photos were ignored. I can see from the notes the third party's vehicle was inspected and the photographs were considered. Even so, I don't consider it unusual or concerning for the damage to vehicles to be reviewed from photographs.

I understand Mrs M is unhappy decisions were made which she feels were incorrect and contrary to the evidence she supplied. But, as explained above, it's ultimately for Advantage to decide how to settle the claim, acting fairly and reasonably. And, having taken everything into account, I don't agree there's sufficient evidence for me to say it's more likely Advantage failed to do this.

Advantage told Mrs M it had concerns about the injury claim and, although I've seen evidence this was considered, it wasn't something Advantage decided it was appropriate for it to pursue. I can also see once the decision had been made, it was swiftly communicated to Mrs M. So, although I appreciate it would've been a shock to discover she was being held

liable for the claim when the prior conversation didn't reflect this, I don't consider this was an unfair or unreasonable decision for Advantage to make after it'd investigated matters.

Mrs M says the literacy of the staff at Advantage has been appalling. With the benefit of reviewing the file now the claim has been dealt with, I can see occasions where its staff members could've explained things better when communicating with Mrs M. But I'm satisfied Mrs M ultimately understood the situation and point being communicated. And I don't find it more likely its case handlers lied or misled her.

In summary, I won't be asking Advantage to do anything to put matters right in this matter. I recognise Mrs M will be disappointed with this outcome. But my decision ends what we – in trying to resolve her dispute with Advantage – can do for her.

My final decision

For the reasons set out above, I don't uphold Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 30 January 2024.

Rebecca Ellis
Ombudsman