

## **The complaint**

Mr R complains about the settlement offered by Advantage Insurance Company Limited after an accident involving his car.

## **What happened**

The background to this complaint is well known to both parties, so I'll provide only a brief summary here.

Mr R had car insurance underwritten by Advantage. He made a claim after his car was involved in an accident. Advantage decided the car was to be written off.

Advantage then told Mr R he hadn't disclosed information about previous claims when he bought the policy. And so, they were intending to settle the claim proportionally. He'd paid 40% of the premium he ought to have paid, so they were paying 40% of the claim.

Mr R wasn't happy with this and made a complaint to Advantage. And when they maintained their position, he brought his complaint to us.

Our investigator looked into it. She thought Advantage were entitled to settle the claim proportionally. But they hadn't been able to explain in detail to Mr R - or to us - how they'd calculated that he'd paid 40% of the premium he would have paid had Advantage been aware of the undisclosed claims at the outset.

So, she upheld the complaint and – in the absence of any detailed explanation from Advantage about their calculations – asked them to settle the claim in full.

Advantage disagreed and asked for a final decision from an ombudsman.

I also disagreed with our investigator's view, so I issued a provisional decision. This allowed both Mr R and Advantage the chance to provide further information or evidence and/or to comment on my thinking before I issue my final decision, which is this service's last word on the matter.

## **My provisional decision**

In my provisional decision, I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

There's no dispute here about the undisclosed claims. Advantage decided – perfectly fairly and reasonably - that Mr R's failure to provide information about those claims when he bought the policy was careless rather than reckless or deliberate.

In those circumstances, the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) allows an insurer to settle a claim proportionally where, if they had known the full facts, they would have offered cover but charged a higher premium.

So, as our investigator said, it's beyond any doubt that it was fair and reasonable for Advantage to offer a proportional settlement in response to Mr R's claim.

The question for me in making this decision then, becomes whether Advantage have done enough to give both Mr R and our service assurance that the calculation they performed – to arrive at the conclusion that Mr R paid 40% of the premium he ought to have paid – was accurate, reliable and fair.

Advantage tell us they calculate the premiums they offer to customers using a sophisticated, complex and computerised algorithm. This makes a calculation of the total premium payable based on a series of sub-calculations which cross-reference a large number of factors.

In other words, it's not simply a case of saying that, for example, one non-fault claim in the previous five years adds X% to the premium, whilst a fault claim in that same period adds Y%.

Those factors – in this example, the claims – would add a percentage calculated by cross-referencing them to a number of other factors known to Advantage at the time the policy was bought.

Advantage are entitled to decide what risk they wish to cover and at what price. And they're entitled to perform those calculations – whether to provide cover and, if so, at what annual premium – in the way they see fit.

If they wish to do so using very complex algorithms which cross-reference any number of different factors, that's a matter for them.

Our service isn't empowered to tell Advantage what factors they can take into account when they calculate risk – or what weighting to give to those factors. In other words, their algorithm for calculating risk and premiums is what it is and it's not for our service to interfere with it.

And so, it would serve little purpose for me to insist, in this case (given the evidence we have available to us in this particular case), that Advantage provide us with the full detail of the calculations performed by their computerised algorithm.

Advantage have provided us with evidence to show that, when they discovered that Mr R had made a misrepresentation when he bought his policy, they calculated what his premium was without the undisclosed information and what it would have been had they known the full facts.

They did this by entering the two different sets of information into the computer system which performs the complex calculations described above – at the same point in time and using the same algorithm.

I'm satisfied, from the evidence Advantage have provided, that the information they entered into the system to perform those calculations was correct. And I'm satisfied that the premium calculated without the undisclosed claim information was 40% of the premium calculated when the undisclosed information was added.

That being the case, I'm minded, as things stand, to conclude that Advantage haven't treated Mr R in any way unfairly or unreasonably in settling his claim proportionally based on the premise that he in fact paid only 40% of the premium he ought to have paid had the full facts been known.

Advantage haven't treated Mr R differently to the way any other policyholder would have been treated. And I'm satisfied they've used their systems accurately and reliably to arrive at the proportional settlement they offered to Mr R."

And for those reasons, I said I was minded not to uphold Mr R's complaint.

### **The responses to my provisional decision**

Advantage haven't responded to my provisional decision at all. I assume because they agree with it and have nothing more to add.

Mr R responded very briefly. Mainly to say that he was also unhappy with the way the car had been handled whilst it was with the recovery service appointed by Advantage.

### **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.

We've made Mr R aware that if he's unhappy with the way the car was handled after the accident, he'll need to make a new complaint to Advantage about that issue. It's not something I can consider in this decision because Mr R didn't raise it as part of this complaint, either with Advantage or with us.

So, there's nothing to make me change my mind about the outcome suggested in my provisional decision. I've looked again at the evidence we have on file and I'm entirely satisfied that Advantage haven't treated Mr R unfairly or unreasonably in the way they handled and settled his claim.

### **My final decision**

For the reasons set out above and in my provisional decision, I don't uphold Mr R's complaint.

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

Neil Marshall  
**Ombudsman**