

## **The complaint**

Mrs C complains that a charge was placed against her property for over ten years due to Advantage Insurance Company Limited (Advantage) failing to indemnify her following an accident she had in 2009, under her motor insurance policy.

## **What happened**

Mrs C was involved in a car accident in 2009 when driving her father's car. This caused damage to a third-party's property. Mrs C says she was insured with Advantage, but it denied this.

Mrs C says when she tried to re-mortgage her home in 2020 this was refused. She subsequently discovered, the next year, that a 'charge' had been placed against her home, which was the cause of the mortgage refusal. She says this was because Advantage hadn't dealt with the claim from 2009.

Mrs C says she has been refused credit from the time the charge was applied in 2012. This has meant she couldn't get a new car and wasn't able to re-mortgage.

In its final complaint response Advantage says there were two entries on the Motor Insurance Database (MID) at the time of the accident. This meant there were two insurers. One was for Mrs C's father and the other was her policy with Advantage. The business contacted the other insurer and was told Mrs C's father was no longer the registered owner of the vehicle. It says there was a delay in receiving information from the other insurer. But it didn't deal with the claim as there was no cover in place.

In its complaint response Advantage says it became aware of a judgement from the third-party's solicitors. This prompted it to reopen Mrs C's claim. It then discovered it was able to deal with the claim under the 'driving other cars' cover on her policy. Advantage says this should've been discussed with Mrs C a lot sooner. It says it has now settled the charge placed against Mrs C's home, which related to the damage caused by her accident.

Advantage says it isn't responsible for the lack of updates provided by Mrs C or the third-party solicitors. It says as soon as it was made aware of the judgement it acted to resolve the matter. Advantage apologised to Mrs C that she was unable to re-mortgage her home. It offered her £300 compensation and arranged for the charge to be removed from the record.

Mrs C didn't think she'd been treated fairly and referred the matter to our service. Our investigator upheld her claim. She says it's right that Advantage took action to settle the debt and remove the charge from Mrs C's home. She didn't think it was fair that it originally declined the claim, which had an impact on Mrs C's ability to obtain credit. But she also didn't think Mrs C had shown this was the only thing affecting her credit worthiness. That said our investigator thought Advantage should pay Mrs C £1,000 for the frustration and upset it caused her.

Mrs C didn't accept this outcome and asked for an ombudsman to consider the matter.

It has been passed to me to decide.

I issued a provisional decision in April 2024 explaining that I was intending to uphold Mrs C's complaint. Here's what I said:

*provisional findings*

*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 my intention is to uphold Mrs C's complaint. Let me explain.*

*I've read the claim records provided by Advantage. The first note is on 5 July 2022 when Mrs C contacted the business about the court judgement concerning a charge against her home. The record refers to indemnity complications for the original claim in 2009. It says Mrs C made a change to her policy to add her father's car on the day of the accident. The accident had occurred in the early hours of that morning. The note says that cover for that car wasn't in place until after the accident. This meant the claim wasn't progressed as it was thought there was no cover in place. The records say this meant the matter was pursued by the third-party who suffered damages, without a defence being filed.*

*Advantage's records show Mrs C disputed adding her father's car onto her policy. It says she'd called to report the accident not to change the vehicle. The note says if Mrs C was the vehicle owner at the time of the accident then Advantage wouldn't be liable for the claim. This is because she owned the car and hadn't insured it on her policy at the time of the accident. But if she wasn't the owner at the time of the accident, then she was covered under her policy. This is because she had cover allowing her to drive other cars.*

*Advantage accepts it should've indemnified Mrs C for the loss she caused in 2009. This is confirmed in a note dated 19 October 2022. It says the judgement was for £27,000 but interest at 8% had been added from the date this was made. I can see that Advantage appointed its solicitors to consider whether it had to pay the interest in order to remove the charge from Mrs C's record. The notes show the full charge, including all interest owed, was settled by Advantage in January 2023.*

*Advantage has provided an undated letter that it wrote to request the judgement made against Mrs C to be removed. In its letter the business explained it was poor file management, on its part, that caused this issue. Advantage received a response from the body responsible for maintaining these records on 9 March 2023. It requested more details about the judgement so that it could take the appropriate action.*

*I can't see from the records when the charge was removed. Mrs C says it was around August 2023 when this eventually happened.*

*I've seen emails that were exchanged between Mrs C and Advantage around September 2012. The business told Mrs C she wasn't covered at the time of the accident. It acknowledged she'd received a letter saying she was. But confirmed this was a mistake. Mrs C responded to say she would take her concerns to a consumer television programme. She says she will have to pay the debt but that she would make this matter "as public as I can".*

*I've seen a copy of the final charging order dated 21 March 2013. It says the charge created by the order made on 30 January 2013 shall continue. It then says Mrs C owes £28,932.35 based on a judgement made on 8 August 2012 by the county court. It confirms interest is to*

be added at 8% plus costs of £264.

*From what Mrs C has said she was unaware that this charge had been made against her home. She says she wasn't able to obtain credit but couldn't find out why. She says she only identified the charge had been applied in around July 2022 when a mortgage broker discovered this was impacting on her ability to get a mortgage.*

*Based on this evidence Advantage unfairly declined to indemnify Mrs C for her accident in 2009. She was covered to drive her father's car, so it should have dealt with the claim made by the third-party. The emails show Mrs C appealed Advantage's decision in 2012. My understanding is she was prompted to do so as a result of action taken against her by the third-party who's property she damaged. Advantage reiterated that no cover was in place when she made contact at this time.*

*I've thought about the impact all of this had on Mrs C. She says she suffered a period of ill-health, and her mortgage was put onto an interest only arrangement to assist with her finances. She says the mortgage provider went into receivership and since then she hasn't been able to re-mortgage because of the charge on her home. She says this meant she was stuck with an interest only mortgage for 13 years.*

*When reviewing her and her partner's credit scores, Mrs C she says nothing relating to the charge showed up. It was only when a more detailed search was conducted by her mortgage broker that the charge on her home was found.*

*Mrs C says her house was damaged by a fire in 2020. The loss was covered by insurance with a settlement payment. But work was delayed by the coronavirus pandemic. She says the price of carrying out the work increased significantly during this time. Mrs C says she wasn't able to re-mortgage so couldn't afford to continue with the repairs. She explains that some she'd planned some remodelling of her home, which involved building another bedroom. Mrs C says that because of the delay repairing her fire damaged home her neighbour instigated legal proceedings. She says her family have been living in a static caravan at the bottom of her garden as a result of not being able to re-mortgage.*

*We asked Mrs C to provide information to show that the reason she couldn't obtain a mortgage was solely due to the charge on her home. She responded with a message from her insurance broker that refers to a default. Mrs C says the default and the charge on her property mean the same thing.*

*I asked if Mrs C could provide the information she obtained about her credit score. And what contact she received from the court in relation to this matter. I also asked if she contacted one of the main credit reference agencies to understand why credit was being refused.*

*Mrs C responded to say her credit score was "bad", but she didn't know why as nothing flagged up. She says she used an online credit broker to try and see why her credit rating was preventing her re-mortgaging. But this didn't reveal anything obvious. Mrs C says any information she received from the court she forwarded to Advantage.*

*Having carefully considered the evidence there's no dispute that Advantage should've dealt with the third party's claim at the time it was first made. So, I've thought about whether the business is responsible for the losses Mrs C has set out.*

*Mrs C knew she was having difficulty obtaining credit. From what she says there was no reason, she was aware of, that explained why this should be happening. However, I can't see that she asked her potential creditors, including her mortgage provider, why she was being refused credit. I think this would've been a reasonable course of action to understand*

*the cause of the problem.*

*Mrs C could also have contacted one of the credit reference agencies. The main credit reference agencies are required by law to provide a copy of an individual's credit reference file for a small fee. Mrs C says she used a credit broker service to see if she could identify a problem with her credit history. But she didn't contact one of the credit reference agencies. I think it's likely that the cause of the credit issues could've been identified at an earlier stage had Mrs C pursued this line of enquiry.*

*I acknowledge Mrs C's comments that she isn't familiar with how credit profiles work. But given the financial impact the refusal of credit had on her and her family, I think it's reasonable to expect she'd take further steps to find out why she was being refused all credit she applied for. Mrs C could also have sought help from The Citizens Advice Bureau, which provides information via its website. It can also be contacted by phone, email and at its offices to provide help free of charge.*

*Advantage didn't treat Mrs C fairly when it declined to cover the third-party's claim. But we expect her to take reasonable action to mitigate any losses. Mrs C says her losses resulted from the charge against her home. She hasn't provided information that shows the charge was the only issue impacting on her obtaining credit. But assuming it was, Mrs C could've taken steps to find out why she couldn't get credit. Had she done so Advantage could've settled the debt earlier. Mrs C wouldn't then have experienced the problems she describes.*

*Having considered all of this I don't think Advantage's offer of £300 compensation is fair. Advantage should've settled the original claim from 2009. Had it done so there would have been no charge placed against Mrs C's home in the first place. This has resulted in significant inconvenience and distress for Mrs C. I agree with our investigator that it should pay her £1,000 compensation in total. But I think Mrs C could've mitigated the losses she describes had she taken reasonable steps to identify the cause of her bad credit status.*

*I don't think Advantage is responsible for the delay in Mrs C arranging the repairs to her home as a result of the fire that occurred. Her loss was indemnified by her building's insurer. If she has concerns about how this claim was settled she should contact it to raise a complaint. But for the reasons discussed here, I don't think Advantage is responsible for the losses she has described in relation to this point.*

*In summary I don't think Advantage treated Mrs C fairly. My intention is that it should pay her a total of £1,000 compensation for the inconvenience and distress it caused her.*

*I said I was intending to uphold Mrs C's complaint and Advantage should pay her a total of £1,000 compensation.*

*I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.*

*Neither party responded with any further comments or information for me to consider.*

### **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 has made any further submissions or provided further evidence for me to consider, I see no reason to change my provisional findings.*

So, my final decision is the same as my provisional decision and for the same reasons.

### **My final decision**

My final decision is that I uphold this complaint. Advantage Insurance Company Limited should:

- pay Mrs C a total of £1,000 compensation for the distress and inconvenience it caused her

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

Mike Waldron  
**Ombudsman**