

The complaint

Mr M has complained about Advantage Insurance Company Limited. He isn't happy about the way it has looked into liability following a third-party claim against his motor insurance policy.

What happened

Mr M's motor insurance was with Advantage, and it contacted him about an alleged incident his car had been involved in. Advantage had been contacted by a third party who alleged that his car had been involved in an accident.

Advantage wrote out to Mr M about the incident and asked him for his account. And as Mr M's insurance was due for renewal his premium was impacted because of the incident. As Mr M wasn't happy about all of this he complained to Advantage and then this Service. Ultimately, Mr M maintained that he wasn't driving on the date in question and suggested he was at hospital around the time of the alleged incident.

Our investigator looked into things for Mr M, but she didn't uphold his complaint. She explained to Mr M that Advantage had to look into the claim made against his policy by the third party and that it hadn't finalised liability as yet. And it needed Mr M to cooperate and provide details that showed he was at hospital at the time of the incident and any surrounding evidence he may have in support of his position. Plus, as Advantage had to look into the incident there was an open claim against his policy which would impact his premium. And she explained to Mr M that this could be revisited once the claim was finalised.

As Mr M didn't agree the matter has been passed to me for review.

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 can understand Mr M's frustration here as he knows whether his car was or wasn't involved in an accident and whether he, or anybody he knew, was driving at the time of the claim made against him by the other driver. But, as our investigator explained, the third party has made a claim against Mr M's policy and has said his car was involved in an incident and notified his insurer to that effect. And so, Advantage has to investigate this and look to defend Mr M. But it needs an account, detail, and information from Mr M in order to do that. So, although I know this will come as a disappointment to Mr M, I don't think Advantage has done anything wrong. I'll explain why.

As Mr M is aware, it isn't the role of this Service to decide liability, which is a matter for the courts. Although we do look to ensure insurers have acted in a fair and reasonable way. Under the policy terms, Advantage has the right to take over the settlement of the claim. This gives it the right to decide whether to take a third party to court or settle a claim. Legal proceedings are time-consuming, expensive and the outcome can be uncertain. As such, it will not always be commercially sensible to take legal action against a third party.

However, this Service's general approach is that insurers should act fairly and reasonably in deciding whether to settle a claim and on what basis. We expect insurers to make a reasonable assessment, based on a clear understanding of the evidence and the circumstances surrounding the accident.

In this instance Advantage hasn't finalised its position on the claim made against Mr M and it is looking to defend his position – it is just looking to try and find out what has happened at this stage in order to defend Mr M. I know Mr M isn't happy about this as he believes the incident didn't happen and the other driver has made a '*false accusation*'. But the third party has provided a picture showing Mr M's car in situ at the time of the incident so I can understand why Advantage has looked into the claim. And Mr M is obliged to cooperate with Advantage's investigation, and it isn't acting unreasonably by requesting a detailed account of his movements and some proof of his hospital attendance. Once liability is finalised, and if Mr M remains unhappy, then he can advance a complaint to Advantage about this.

I understand Mr M's renewal quote increased because of the incident reported by the third party and having an open claim. While I understand why Mr M isn't happy this is an inevitable consequence of the third party saying that there was an incident involving his car. However, once the claim is finalised, and if it is marked as non-fault, Mr M may be able to approach his new insurer and ask them to rerate the policy and he *may* get a refund.

Finally, I know Mr M feels he has been caused stress and inconvenience and that he should be paid for his time for dealing with all of this. However, as I've already alluded to, he is obliged under the policy to cooperate with his insurer, and I wouldn't expect anyone to be paid for their time in simply assisting their insurer in order that it can defend them. And although I accept this must have been stressful and worrying for Mr M, at a particularly difficult time, I can't hold Advantage responsible. I say this as the stress was caused by the other side making a claim against him as opposed to Advantage looking to defend him.

Given all of this, and I know this will come as a disappointment to Mr M, I don't think Advantage acted unreasonably here. This is because the third party identified Mr M's car as being involved in an incident and Advantage had to consider the claim.

My final decision

It follows, for the reasons given above, that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 31 January 2024.

Colin Keegan
Ombudsman