

## **The complaint**

Mr R complains about how Advantage Insurance Company Limited handled a claim he made under his motor insurance policy. He is 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 and focus on the reasons for my decision.

Mr R was in a car accident in October 2022, and he made a claim to Advantage. Mr R explains he was driving on a residential road and slowed down, checked his mirrors, and then indicated left to turn into a driveway. A car from behind hit his vehicle on the nearside front door/wheel arch. He says his car suffered a minor scratch and the third party's car was scratched on the driver's side wing mirror and wheel arch.

Advantage was also given the third-party driver's version from her insurer which stated Mr R was looking to turn right and then swung left across the path of their vehicle and it was Mr R who was at fault.

Advantage explained to Mr R, in the absence of any independent evidence, due to the similarities in the versions of events and both parties holding the other at fault, there wouldn't be enough to defend Mr R from all liability. However, Advantage explained it would be able to defend a 50/50 split of liability.

The next communication Mr R says he received was to inform him Advantage had accepted full liability for the third party's claim. So, Mr R complained to Advantage – it'd paid out money without informing him or carrying out a proper investigation. He says Advantage should cover the increase in his car insurance premium.

Advantage explained the third party's insurer intended to take it to court over the claim. It wasn't confident it'd be successful in a defence at court, even of a 50/50 split of liability. So, it settled the matter to avoid escalating the costs on the claim, as it was entitled to do under the policy terms. Advantage reassured Mr R it wouldn't pay out if it deemed the cost to be excessive. It paid £70 to Mr R as compensation for its poor communication and failure to push to settle the matter on a 50/50 basis and explained the claims team had been asked to reopen Mr R's file to do this. However, this would still be recorded as a fault claim which would affect his policy.

Mr R wasn't happy with this and came to this service for an independent review.

When reviewing its file to send it to this service, Advantage explained it reconsidered its decision and didn't agree with the case handler who'd said it would've been able to successfully argue a 50/50 split. It explained the vehicle damage and version of events from both parties, including diagrams from Mr R and photographs taken immediately after the incident, supported the more likely version of events was that of the third party.

The Investigator looked into matters and didn't uphold Mr R'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 was unfair.

Mr R disagreed. He doesn't feel questions asked by him have been answered by Advantage. And says no one has contacted him from the claims team about pushing for a 50/50 split, as mentioned in Advantages response to his complaint.

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.

Although a number of matters and points have been raised, this decision focuses on what I consider are the main issues. However, I've given careful consideration to all of the submissions made before arriving at my decision. Having done so, I'm satisfied the Investigator reached a fair outcome here. So, I don't uphold Mr R's complaint in this matter. I'll explain why.

Firstly, I acknowledge Mr R 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 Mr R'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. For example, it may not try to recover its outlay or settle a claim from the third party or their insurer.

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 Mr R's policy based on the vehicles' damage and what each party said, including the evidence from Mr R. Having taken this into account, along with the Highway Code, it was satisfied the evidence was more consistent with the third party's version of events. It also considered its experience of how courts view such matters and the likelihood of success in pursuing a legal case. Whilst Mr R doesn't agree with this approach, Advantage didn't consider it was a case it would win – even on a 50/50 split – so 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.

I understand Mr R is unhappy decisions were made without his consent. But, as explained above, it's ultimately for Advantage to decide how to settle the claim, acting fairly and reasonably. That said, Advantage accepts its communications with Mr R to let him know what was happening were not satisfactory nor was its failure to push for a 50/50 split when it had told Mr R it would do so. To recognise this, it has paid Mr R £70 compensation and I consider this to be a fair and reasonable way to resolve this his complaint. I say this, not because I find Advantage should've pushed for a 50/50 split but because it shouldn't have told Mr R this is what it would do – throughout the claim and in its response to his complaint - and then failed to carry this out nor explain to him the position had changed.

In summary, I won't be asking Advantage to do anything further in relation to this matter.

I recognise Mr R will be disappointed with this outcome. But my decision ends what we – in trying to resolve his dispute with Advantage – can do for him.

### **My final decision**

For the reasons set out above, 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 20 December 2023.

Rebecca Ellis  
**Ombudsman**