

## **The complaint**

Mr C has complained that Advantage Insurance Company Limited have turned down his claim under his car insurance policy following an accident.

## **What happened**

Mr C intended to insure his car (car A) online via a comparison site with Advantage through a broker in February 2019 with a policy start date of 1 March 2019. Unfortunately, he provided the registration number for the wrong car (car B). He'd sold car B some years earlier. The broker provided confirmation of the policy details via an internet portal and this showed the registration number and make and model of car B. Some months later Mr C had a letter from the DVLA to say that car A wasn't insured. And he contacted the broker through a webchat in August 2019 to let them know his car wasn't insured. The adviser asked him for his policy number and to confirm his car's registration number. Mr C gave the correct policy number, but he gave the registration number of car B. The adviser said she'd send a request to get the vehicle updated on the Motor Insurance Database.

Mr C was involved in an accident in September 2019 in which his car and a third party vehicle were damaged. When he called to let Advantage know about the accident he provided the registration number for car B. Soon after this he realised he'd insured car B instead of car A by mistake. So, he called Advantage to let them know. Advantage decided to refuse Mr C's claim. This meant they wouldn't pay out for his car to be repaired. And they wouldn't pay the claim from the driver of the other car involved in the accident.

Mr C had to hire a car to get around. And he eventually paid to have his car repaired. And he's now been contacted about what's been paid out on the other driver's claim.

Mr C complained to Advantage, as he didn't think he should be penalised for what was a genuine error in insuring the wrong car. Especially, as Advantage would have been happy to insure the right car. And he explained why he felt Advantage should have pointed out to him he'd insured a car despite not being the registered keeper. He also said when he contacted the broker to query why his car wasn't insured, they should have told him car B had been noted as insured on the Motor Insurance Database for many years. Advantage wouldn't change their mind, so Mr C bought a complaint to us.

One of our investigators considered Mr C's complaint and said it should be upheld. She suggested Advantage should accept Mr C's claim and cover some of his expenses. This was on the basis that Mr C had made an innocent mistake and Advantage would have been quite happy to insure the correct car.

Advantage didn't agree with the investigator and asked for an ombudsman's decision. Mr C's complaint was then referred to me. I asked Advantage and Mr C for some further information, so that I could properly consider the fair and reasonable outcome to it.

I issued a provisional decision on 29 June 2021. In this, I explained that I didn't think Advantage should have to deal with Mr C's claim. This was because they hadn't done anything wrong which led to the wrong car being insured under Mr C's policy. I also said I

thought what they'd already paid in compensation for the poor service provided to Mr C on his claim was appropriate. However, I said they should refund the premium for the period the wrong car was insured.

I gave both parties four weeks to provide further comments and/or evidence.

Advantage have now responded to say they agree with my provisional decision and will provide the refund of premium if Mr C accepts my decision.

Mr C has replied to say he doesn't agree with my provisional decision. He thinks I have completely ignored his arguments around precedents within Advantage for dealing with cases where people have made clerical errors. He also thinks I have ignored precedents within the insurance industry for how insurers deal with this sort of situation. He has said another insurer he contacted told him they would have honoured his claim in the same circumstances.

Mr C has also said he does not agree with my opinion that an important consideration is whether Advantage did anything wrong. He thinks the most important point is that he has been treated unfairly. Mr C also doesn't understand how if our investigator's initial investigation resulted in a finding in his favour, I could disregard the investigator's findings and reach the opposite conclusion.

### **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.

Firstly, I would like to say that I fully understand Mr C's frustration and disappointment with the fact I've reached a different conclusion to our investigator. And I would also like to assure him that I did not disregard her reasons for suggesting that Advantage should meet his claim. However, my role is to decide what I think the fair and reasonable outcome to his complaint is. And – while I understand he made a clerical error in insuring the wrong car, I do not think this means Advantage should have to deal with his claim.

In deciding what is fair and reasonable in all the circumstances I have to consider the law and regulations, regulator's rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice.

As I explained in my provisional decision, I don't think there is any legal reason why Advantage should have to meet Mr C's claim, as they were not insuring the car he was driving at the time of his accident. I appreciate this was due to a mistake by Mr C, but Advantage had no way of knowing this.

The rules covering claims handling by insurance companies are set out in Section 8 of the Financial Conduct Authority (FCA) Insurance Conduct of Business Sourcebook. And these along with the High Level Principles at the start of the handbook set out how Advantage should have treated Mr C when he made his claim. These meant Advantage had to treat Mr C fairly and not unreasonably reject his claim. And this is why I think it is important for me to consider whether anything that Advantage did wrong led to the wrong car being insured under Mr C's policy. This is because – if Advantage had done something wrong, they wouldn't have treated Mr C fairly, and they would have unreasonably rejected his claim.

However, nothing Advantage did wrong led to the wrong car being insured under Mr C's policy, as it was due to a clerical error on his part. Therefore, I don't think Advantage's rejection of his claim was unreasonable and I'm satisfied they treated him fairly.

I appreciate Mr C made a clerical error in insuring the wrong car, but the consequence of this was that Advantage weren't insuring his car. And I think Advantage can only be expected to pay claims for items they have agreed to insure, provided they didn't do anything wrong.

I'm not aware of any other cases where Advantage have settled claims where their customer was uninsured due to a clerical error on the customer's part. And I don't think I need to check this, as I have to consider whether Advantage have acted reasonably and in line with their obligations in Mr C's case. And I think they have. And I do not think it can be said to represent good industry practice for an insurer to settle a claim in this situation. Insurers normally only settle claims for items they are aware they are insuring. I appreciate another insurer has told Mr C they would have settled his claim in similar circumstances, but it's not what I'd expect an insurer to do.

It therefore remains my view that it would not be a fair and reasonable outcome to Mr C's complaint to make Advantage settle his claim. I'm also satisfied they have provided enough in compensation for the poor service they provided to Mr C. But I do think they should refund any premium he paid while Advantage was insuring the wrong car. And I am pleased they have agreed to do this if Mr C accepts my decision.

### **Putting things right**

As I've already explained, all Advantage needs to do is refund the premium Mr C paid for the period they were insuring the wrong car.

### **My final decision**

For the reasons set out above and in my provisional decision dated 29 June 2021, I have decided Advantage Insurance Company Limited don't have to settle Mr C's claim or pay him further compensation for the poor service they provided to him. But they do have to refund the premium Mr C paid for the period they were insuring the wrong car under Mr C's policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 7 August 2021.

Robert Short  
**Ombudsman**