

The complaint

Mr M has complained about Advantage Insurance Company Limited. He isn't happy as he feels it unfairly cancelled his motor insurance policy.

Mr M has a solicitor supporting him in this complaint. I'll refer to him as Mr A.

Other companies have been involved in this complaint, but as Advantage are responsible for it, I've just referred to Advantage in this decision.

What happened

I looked at this case and provided my initial thoughts in my provisional decision as follows;

Advantage was contacted by a third party who alleged that Mr M had driven into their stationary car and driven off. So it wrote out to Mr M on a number of occasions asking him to make contact in order to discuss the claim. It also text and called Mr M about the claim but he didn't respond so it went onto cancel his policy giving the relevant notice and eventually settled the claim.

Mr M complained to Advantage about this as he wasn't aware that his policy had been cancelled until he was pulled over by the police. He said he was aware Advantage had been trying to talk to him, but he'd asked them to speak to his solicitor Mr A. Mr M said he thought Advantage were actually trying to talk to him about another accident he had been involved in around August 2020 (Mr A was also representing Mr M for this).

Advantage responded to say it hadn't done anything wrong and that it was compelled to cancel the policy as Mr M wasn't cooperating. And said it clearly communicated the cancellation to Mr M at his home address and couldn't be held responsible for his lack of contact. As Mr M still wasn't happy about this he complained to this Service.

Our investigator looked into things for Mr M and upheld his complaint. Overall, he felt that Mr M had cooperated with Advantage and the cancellation of his policy was unfair. This was because he felt Mr A didn't realise Advantage was contacting him about the November 2020 incident, as opposed to the earlier incident. And there was a breakdown in communication about this when Advantage spoke to Mr M about the claim, partly due to a language barrier. So our investigator felt that Advantage should have contacted his solicitor about the accident.

But Advantage didn't agree. It said it had tried to contact Mr M's solicitor, but the email bounced back as Mr M had provided an incorrect email address. And it had no obligation to call the solicitor as it didn't have any authority for this in relation to the November incident. So the matter has been passed to me for review.

I outlined, in a previous provisional decision, that I was minded to accept Advantage's position. Although I had some sympathy with Mr M and the position he found himself I didn't think Advantage had done anything wrong. It had simply followed its processes and sent Mr M a number of emails and called him explaining that he needed to make contact about the

second incident, or his policy would be cancelled. And it had tried to contact Mr M's solicitor, even though it didn't have authority to do so for this incident, but Mr M had provided a slightly incorrect email address for his solicitor.

Overall, I was minded not to uphold Mr M's complaint as I thought Advantage had acted reasonably and done all it could in trying to tell Mr M that his policy would be cancelled as Mr M should have taken steps to cooperate and keep his policy live at that stage.

What I've provisionally decided – and why

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

Advantage didn't comment on my provisional decision while Mr A (Mr M's solicitor) said he disagreed for a number of reasons and said again that English wasn't Mr M's first language. And that Mr M simply wasn't aware of the second incident and thought Advantage was making contact in relation to the first incident. And that Mr M had referred the letters, calls and emails to his solicitor in order to advance. Mr A, importantly, pointed to a number of telephone calls he had with Advantage during the period that led up to cancellation and just after Mr M was stopped by the police.

Although a number of telephone calls were already on the file they were solely between Mr M and Advantage, so I asked Advantage to provide copies of these further calls with Mr A. And having listened to those calls I'm minded to now uphold Mr M's complaint. I'll explain why.

Advantage provided copies of Mr M's solicitor's call from before the policy cancelled in early December 2020. Mr A called Advantage on Mr M's behalf as he couldn't understand what was happening; why Advantage were contacting him instead of his solicitor; and he believed contact was solely about the earlier incident. Mr M and his solicitor weren't aware of the second incident and so they couldn't understand why there would be a suggestion that the policy would be cancelled. Having listened to this call from early December 2020 (between Mr M's solicitor and Advantage) I think an opportunity was lost to make it clear to Mr M's solicitor that there was a second incident (which would have clarified everything and prevented the cancellation). And secondly the call taker made it clear that Advantage would correspond with Mr M's solicitor solely about the second incident and generally.

The call taker made it clear that Advantage would contact the solicitor if anything further was required. And Mr M's solicitor made it clear that Mr M struggled with English, as it wasn't his first language, and that Advantage's contact was upsetting Mr M as he couldn't understand what was happening. And as it was made abundantly clear in the call to Mr A that any contact about his client would go through him I think Advantage should have communicated the cancellation to Mr A as well. And Mr A had a reasonable expectation that any further problems or issues would be directed to him as that is what the call taker told him.

Furthermore, Mr M's solicitor contacted Advantage with his client after his policy was cancelled and his car was impounded. It was only at this stage that it became clear to Mr M and his solicitor that there was a second incident. However, Advantage wouldn't discuss this with Mr M's solicitor as it wanted written authority on file from Mr M. And it wouldn't even discuss the matter with Mr M when it was his policy and he could've assisted Advantage with its enquiries and provided clarification around the alleged second incident.

Given this further evidence I'm minded to change my position. I now think the fair and reasonable thing to do, in the particular circumstances of this case, is to uphold the complaint and revert back to the investigator's original position. I say this as I think it is clear,

given the further evidence that has come to light, that Advantage should have communicated with Mr M's solicitor who was clearly struggling to understand what had happened and wasn't aware of a further incident. And as Advantage had all Mr A's contact details on its systems it would have been easy to double check his email details when it tried to contact him, and the email bounced back. I know Advantage simply tried to follow its normal cancellation procedure but given the telephone call with Mr A and the fact that it had Mr A's full contact details on file I think the cancellation was unfair.

So, Advantage should look to put Mr M back into the position he would have been but for its error. I do appreciate it sent a lot of communication which wasn't replied to or acknowledged by Mr M. And I'll factor that in when thinking about the compensation. But, I'm persuaded Mr M genuinely believed all issues were being dealt with by Mr A – and I've seen emails between the two which confirm this. And, as discussed above, Mr A was clearly trying to communicate with Advantage or trying to get Advantage to deal with him direct.

Looking to put Mr M back into the position he would have been will involve putting right the financial loss Mr M has incurred – the Police impound costs as that wouldn't have happened but for Advantage's error, along with 8% interest as he's paid that already. Advantage also need to remove any record of a cancellation from its systems or any external systems. It also needs to provide a letter of indemnity so Mr M can speak to his new insurer about them rerating his premiums, and so he can provide this to the Police or any other interested parties if necessary.

I also think compensation is appropriate. Advantage had the information and ability to handle things in a better way than it did. In fact, it may have been able to step in after Mr M's car was impounded had it have spoken to Mr M during Mr A's second call which would have prevented a lot of the further problems Mr M faced. But I also can't ignore the fact it did make a lot of effort to try and speak to Mr M. Taking everything into account, I think it would be fair to pay £400 compensation as opposed to the £200 our Investigator recommended. I say this as it must have been embarrassing to have been stopped by the police and have his car impounded. And the general impact of dealing with the Police, the impound of his car and the difficulty in getting new insurance must've been stressful and inconvenient.

Replies and developments

Both sides responded to my provisional decision. Mr M's solicitor accepted the position outlined and said that he had nothing further to add.

While Advantage said it didn't agree with the decision. It said again that it couldn't share the cancellation information with Mr M's solicitor as he wasn't authorised to speak on Mr M's behalf in relation to this claim. It accepted that Mr M was authorised for the first claim but not in relation to the second claim which led to the cancellation.

Although Advantage accepted that it did tell Mr M's solicitor that it would contact him and keep him updated it said that it simply didn't have the authority to discuss the second claim and cancellation with Mr M's solicitor. And Advantage also highlighted again that it sent Mr M multiple communications with the correct claim reference and date which it feels Mr M should have shared with his solicitor.

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.

But having reconsidered everything again I'm still of the view that the complaint should now be upheld.

I've considered Advantage's further representations which, in the main, have already been raised and considered previously, but I'm afraid they don't change my position. Advantage has said that it didn't have authority to speak to Mr M's solicitor about the second incident. However, Mr M asked Advantage to contact his solicitor when it called him about the second incident. The calls didn't really make it clear to Mr M that Advantage was talking about a second claim, but it was clear that Mr M wanted it to talk to his solicitor about everything and it was clear he was confused. And Advantage agreed to do this but, unfortunately, it took down the email address incorrectly and didn't check its own systems to verify the address which it already had on record. Had it have contacted Mr M's solicitor this position would have been avoided. Plus, Advantage's call taker told Mr M's solicitor that it would contact him about the cancellation letters he had received when he called up to clarify what was going on.

So I think it is clear that there was a misunderstanding here about the second incident. And that Mr A expected all communication about the policy to be directed to him, given English wasn't Mr M's first language and he was struggling with the communications he was receiving.

Furthermore, as I outlined above, there was a second call between Mr A and Advantage when Mr M was sat with him. It only became clear in this call to Mr A and Mr M that there was a second incident and yet Advantage wouldn't discuss the claim with Mr A, even though his client was with him and authority could have been given. Indeed, it wouldn't even speak to Mr M about his own policy and about the claim at that time. Had Advantage have discussed the position with Mr M during the second call, which I would have expected it to, then things could have been put right at this stage. And it would have been easy to gain authority from Mr M to do this or to simply speak to Mr M at this time.

Given all of this, I remain of the view that this complaint should be upheld for the reasons outlined above. And Advantage should look to put Mr M back into the position he should have been but for the errors outlined. I do accept that it sent a lot of communication which wasn't replied to. But I'm persuaded that Mr M wasn't aware of the second incident, due in part to the language barrier, and that he thought Advantage was dealing with his solicitor (Mr A) about any issues it raised. And it is clear that Mr A was trying to communicate with Advantage so I feel Advantage should take the steps outlined below to put things right.

Putting things right

I require Advantage to:

- refund Mr M's £170 Police impound fee;
- pay 8% simple interest from the date he paid this, to the date of settlement;
- remove any record of the cancellation from internal or external databases;
- provide a letter of indemnity to Mr M to explain it wasn't his fault his insurance was cancelled;
- only charge Mr M for his time on cover and waive any charges caused by the cancellation adding 8% simple interest; and
- pay Mr M £400 compensation.

My final decision

It follows, for the reasons given above, that I uphold this complaint. I require Advantage

Insurance Company Limited to take the steps outlined in the 'Putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 10 October 2022.

Colin Keegan
Ombudsman