

The complaint

Mr H complains about his insurer, Advantage Insurance Company Limited ('Advantage') for the quality of repairs carried out on his car following a collision.

In referring to Advantage, I include their agents and representatives.

This decision relates only to Mr H's complaint about the mismatch of the paintwork resprayed as part of the repair of his car and the way his claim was handled by Advantage (in respect of which Advantage issued two final responses). It doesn't cover other aspects of complaint subsequently raised about the repairs.

What happened

In September 2021 Mr H's car was involved in a collision. He contacted Advantage who arranged for it to be taken to a repairer for the damage to be fixed. They repaired the damage, including respraying the affected areas of the car.

However, Mr H noticed that the resprayed areas didn't match the colour of the rest of the car (which hadn't been resprayed). The reason for this was the car had previously been re-sprayed in a different shade (although of the same colour). Mr H wasn't aware of this, having bought the car as used a few months before the collision. Unhappy at the mismatched paintwork, he complained to Advantage.

Advantage didn't uphold his complaint. In their first final response they said the repairer resprayed Mr H's car back to the colour the car was registered as having when it was manufactured. Advantage also said Mr H hadn't told them about any respray of the car when he took out the policy (which he did at the same time he acquired the car). But they acknowledged he wasn't aware of the car being resprayed before he acquired it. However, Advantage said it was his responsibility to check the car details (including the colour) when he acquired it and to declare those details when taking out his policy.

Mr H then complained to this service, unhappy that Advantage's repairer had resprayed his car in the wrong colour, which he said meant it had lost some 20% of its value. He disagreed with Advantage's view that the car was resprayed by a previous owner, saying to his knowledge the car hadn't been resprayed since its manufacture. He wanted Advantage to have his car resprayed in what he thought was the correct colour.

Following his complaint, Mr H made a second complaint to Advantage, raising issues about the way his claim was handled and the time and cost of having to contact Advantage (as well as his concerns about the mismatched paintwork). In their second final response they maintained their position on the issue of the mismatched paintwork and Mr H had been advised this would result in a mismatch with the previously resprayed colour of the car. Advantage also said the repairer wouldn't respray the whole vehicle as only part of the vehicle was damaged in the collision and they'd used the correct colour code.

Advantage also noted the findings of an independent engineer's inspection of the car, including that parts of the car had been resprayed poorly on a previous occasion. Advantage

also referred to a second report from the engineer that concluded the repair was of good quality and (in their opinion) commercially acceptable. Based on this, Advantage concluded the issue with the mismatched paintwork was a result of the previous respray of the car (not using the correct paint code) and not the fault of Advantage or the repairer. But they acknowledged the time Mr H spent raising the issues and the distress and inconvenience caused, awarding him £150 in compensation. They also offered to consider the costs of phone calls by Mr H, if he could produce phone bills to support those costs.

Our investigator upheld Mr H's complaint, concluding Advantage hadn't acted fairly, leaving his car with mismatched paintwork. She didn't think it reasonable for Advantage to expect Mr H to be aware of the car having previously been resprayed (neither was the owner before Mr H). Particularly as the car had been resprayed in a different shade of the same colour (not a completely different colour). She concluded it was unfair for Advantage to leave Mr H's car with mismatched paintwork. She thought Advantage should respray the repaired part of the car to match. If this wasn't possible, Advantage should have the whole car resprayed to match or pay a cash settlement equivalent to the cost of a respray. She also concluded Advantage hadn't progressed Mr H's claim efficiently, but thought their compensation offer of £150 was fair in the circumstances.

Both Mr H and Advantage disagreed with the investigator's view and requested an ombudsman review the complaint.

Mr H said since the collision he hadn't been able to enjoy his car because it had either been in for repair or the mismatched paintwork was a reminder of the unsatisfactory quality of the repairs. He also said he'd suffered financially from the car depreciating since the collision when he hadn't benefited from its amenity value (which he estimated at £500). He also said the episode had been very stressful for him, for which he should be compensated (he thought £500 would be reasonable). He also thought Advantage should pay £1,000 in punitive damages for how they'd treated him, including their saying he withheld information about the car having been resprayed to obtain a lower premium.

Advantage said Mr H not telling them of the car having been resprayed raised the risk of insurers being subject to deliberate misrepresentation (as consumers could simply state they were unaware of a modification). They asked for evidence Mr H (or the previous owner) weren't aware of the modification. They also said they were contractually obligated to repair the vehicle to the original specification and, even if Mr H had declared the modification (the respray), the policy included a condition that meant it wouldn't cover non-standard parts (modifications). Therefore, they'd acted correctly in accordance with the policy terms and conditions by respraying the car to its original specification (colour).

In my initial findings I concluded Advantage shouldn't take any further action. Based on the evidence available as well as further information requested as part of my consideration of the case, I didn't think, at that point, there was sufficient evidence the condition of Mr H's car was such as to reasonably require Advantage to have further repair work carried out.

As I reached a different conclusion to our investigator, I issued a provisional decision setting out my findings and the reasons for my conclusion. This also provided the opportunity for both parties to consider matters further.

Mr H provided further information and evidence, including a report from an engineer following an inspection of his vehicle. He also provided photographs of the vehicle taken during the inspection from a range of angles and readings taken of the paint quality (thickness) at various points of the vehicle's bodywork, using a handheld device.

The report concluded the nearside front wing had too much body filler applied during its repair and had residual damage to the wheelarch. The paintwork of the nearside passenger

mirror was also heavy and rough to the touch. The report also concluded the paint applied to the wing and passenger door was too light, compared to the rest of the vehicle. The report concluded these faults were the result of poor workmanship and poor quality control.

The report recommended replacement of the nearside front wing and its repainting (and the passenger door) in the correct colour shade. It also recommended removing the cover from the nearside passenger door mirror and its repainting. The report didn't set out a detailed estimate of the cost of the work, but included indicative costs for labour, parts, paint and material totalling £1510 (including VAT).

Based on the report findings, Mr H wanted Advantage to settle his complaint by paying the estimated cost of the remedial work in the report, and the cost of his obtaining the report (£270, including VAT). He also wanted to be reimbursed for the time off he'd taken off to obtain the report and for the estimated cost of a courtesy car for the time his vehicle would be in for the work (seven days at an estimated daily hire cost of £80, a total of £560).

Based on the additional evidence and information provided by Mr H, I reconsidered my initial findings and changed my view of the complaint, concluding it should be upheld. As I changed my view of the complaint, I issued a further provisional decision to give both parties the opportunity to consider matters further. This is set out below. I also provided a copy of the report from Mr H's engineer to Advantage for them to consider.

What I've provisionally decided and why

My role here is to decide whether Advantage have acted fairly towards Mr H.

I've considered each of the points made by Mr H in turn.

On the report provided by his engineer, I've considered its findings and conclusions carefully, alongside the photographs of his vehicle. I've also considered the readings of the paint quality (thickness). While they aren't direct indications of the paint code of the vehicle, together with the report's findings and conclusions, I do think they indicate specific issues with the quality of the repairs on parts of the vehicle. I've also noted the findings of the report that the paint applied to the wing and passenger door was too light (compared to the rest of the vehicle). As the report was the result of a visual inspection of the vehicle, together with readings of the paint thickness, then I find the report persuasive and have concluded there is an issue with the quality of the repair work carried out on areas of the vehicle damaged in the accident. So, I've changed my mind on this point.

Given this, I've gone on to consider what I think would be a fair and reasonable outcome. While the report doesn't give a complete, costed estimate of the work needed to remediate the affected areas, it does contain indicative costs for labour, parts, paint and material totalling £1510 (including VAT). The figures are precise, so I think they are a reasonable basis for a settlement. In the circumstances, given Mr H's concerns over the quality of the repairs previously carried out by Advantage's repairers, I think it's reasonable for Advantage to pay Mr H the estimate figure contained in the report (£1,510, inclusive of VAT). As Mr H commissioned the report, I also think it's reasonable for Advantage to reimburse Mr H the cost (£270, including VAT) of obtaining the engineer's report.

On Mr H's request to be compensated for the time he took off to obtain the report and for the estimated cost of a hire car while the repairs to his vehicle are carried out, I've considered both points. On the hire car issue first, if Mr H has repairs carried out to his vehicle, I think it's reasonable to expect the repairer to make available a courtesy car (if Mr H needs one) for the time his vehicle is in for remediation. So, I don't propose to require Advantage to make any payment in this respect.

On the question of compensation for his time off, our approach isn't to require businesses to directly pay for time taken off. But we do take account of what we think is the inconvenience to a consumer. In this case, I think it reasonable to reflect this in compensation for distress and inconvenience. In my provisional decision I thought Advantage's offer of £150 was fair. However, I recognise Mr H suffered further inconvenience from having to obtain an engineer report. Taking this into account, I now think £250 for distress and inconvenience would be fair and reasonable.

My provisional decision

For the reasons set out above, my provisional decision is that I uphold Mr H's complaint. I intend to require Advantage Insurance Company Limited to:

- *Pay Mr H the estimate figure in the engineer's report (£1,510, inclusive of VAT)*
- *Reimburse Mr H the cost (£270, including VAT) of obtaining the engineer's report.*
- *Pay Mr H £250 in compensation for distress and inconvenience.*

Advantage Insurance Company Limited must pay the compensation within 28 days of the date on which we tell them Mr H accepts my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Mr H responded to say that settlement of his complaint should be based on an earlier estimate he'd provided on the cost of repairs (rather than the figure in the engineer's report). Or, settlement on a figure between the two figures. He also asked for the compensation figure for distress and inconvenience be reconsidered, as he thought it too low for the length of time and the stress of the time taken in the case.

Advantage didn't respond by the date requested for the further provisional decision, or when provided with a copy of the report from Mr H's engineer.

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.

My role here is to decide whether Advantage have acted fairly towards Mr H.

On Mr H's first point, the estimate of the cost of repairs, I've looked at the figures from the earlier estimate (totaling £2,342) and the figure in the engineer's report (£1,510). The breakdown of the two indicates differences in the labour time (though the hourly rate appears to be the same) and the cost of materials (particularly paint). I've also noted a separate, earlier accident repair estimate from the time of the original incident (which I understand may be from Advantage's approved repairer). That totals £1,723.88. And a subsequent estimate from a different repairer totals £1,458. While different repairers will prepare estimates that reflect their assessment of the amount of work required, the parts and materials (as well as the hourly labour rate) I've noted three of the figures are reasonably close to one another.

While Mr H may prefer to use his nominated repairer, I think it's reasonable to base a settlement (as I did in my second provisional decision) on figures included in Mr H's engineer's report. In the provisional decision, I acknowledged the report doesn't give a complete, costed estimate of the work needed to remediate the affected areas, but it did contain indicative costs for labour, parts, paint and material. The figures are precise, so I

thought they were a reasonable basis for a settlement. Given what I've said about the various estimates above, I haven't changed my view on this point.

On the issue of compensation for distress and inconvenience, while I understand Mr H's point about the impact and stress of the case, in my initial provisional decision I thought Advantage's offer of £150 was fair. However, in my second provisional decision, I recognised Mr H suffered further inconvenience from having to obtain an engineer report. Taking this into account, I thought a higher figure (£250) for distress and inconvenience would be fair and reasonable. So, I haven't changed my mind on this point

My final decision

For the reasons set out above, my final decision is that I uphold Mr H's complaint. I require Advantage Insurance Company Limited to:

- Pay Mr H the estimate figure in the engineer's report (£1,510, inclusive of VAT)
- Reimburse Mr H the cost (£270, including VAT) of obtaining the engineer's report.
- Pay Mr H £250 in compensation for distress and inconvenience.

Advantage Insurance Company Limited must pay the compensation within 28 days of the date on which we tell them Mr H accepts my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 18 October 2022.

Paul King
Ombudsman