

The complaint

Miss B is unhappy with the way Advantage Insurance Company Limited handled a claim she made on her motor insurance policy.

What happened

Miss B made a claim on her policy when her car was stolen in July 2021. The car was recovered and found with a key inside it. Miss B later complained because of the length of time Advantage was taking to investigate her claim. Advantage acknowledged there were delays, and as compensation it provided her with a hire car to use while the claim was being investigated, and it reimbursed the travel costs she had incurred which came to approximately £315.

Advantage later declined Miss B's claim. It says its investigation found that the key that was in the car was used to steal it. Advantage thinks Miss B was aware that this key, which was her second key, had been missing since February 2020 but failed to take action to safeguard the car by arranging for the locks to be replaced.

Miss B made a further complaint in November 2021 as she thought Advantage took too long to make a decision on her claim when it already knew about the spare key. Advantage acknowledged there had been further delays and paid her £200 in compensation.

Unhappy with Advantage's response, Miss B brought her complaint to our service because:

- She says Advantage failed to provide her with any updates on her claim and all contact was initiated by her.
- She thinks Advantage repeatedly lied about the status of her claim.
- She thinks its decision to decline the claim was based on information it had since she logged the claim.
- Miss B says that after the claim was declined, it was weeks before it released her car, and she had to pay for it's storage.
- She would like compensation to help pay off the debt she was left with after having to sell the car in its damaged state, and settle the finance agreement she had taken out. She said this was due to Advantage declining the claim.

Advantage thinks its decision to decline the claim was right. It also says that while it was aware of the spare key since the car was recovered, it would still attempt to validate the claim before making the decision to reject it. It thinks it's compensated Miss B appropriately for the impact of its actions on her.

Our investigator thought the complaint should be upheld. She didn't think Advantage had shown Miss B failed to safeguard her car. She thought it was more likely than not that the spare key was stolen without Miss B's knowledge, rather than due to her actions. Our investigator thought Advantage should pay the claim and refund the £364 storage and

recovery costs it charged her. However, our investigator thought the compensation it paid was reasonable for the overall delays in dealing with the claim.

Advantage didn't agree with the investigator, and as an agreement couldn't be reached, the complaint was passed to me to decide.

I used my provisional decision on 9 January 2023 in which I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I intend to reach the same overall outcome as our investigator, but I'm making a different award to what was suggested. I'll explain why."

Customer service

Advantage acknowledged the service it provided could be better. It took several months longer than I think was necessary for it to make a decision on Miss B's claim. I understand Advantage wanted the second key analysed before it finalised its decision, but considering this was the key found in the car when it was recovered, I think it should have sent this to be analysed at the same time it sent the main key for analysis. At the very least, once it got the initial report regarding the main key, it could have then sent the spare key for analysis. This would have avoided a delay of around three months, as the first key was analysed in August 2021, but the spare key wasn't sent in for analysis until November 2021.

Following her initial complaint about the delays, Advantage arranged a hire car for Miss B to use while it completed its investigation. It also says it reimbursed the travel costs she incurred up until that point. So, I'm satisfied Miss B didn't lose out financially here. We would usually ask Advantage to compensate Miss B for the time she was without a car, but Miss B wasn't required to return the hire car until Advantage made its decision on the claim. So, while I think there were further unnecessary delays, I'm satisfied Miss B didn't lose out up to this point.

The process of making a claim can be stressful, and it will have been upsetting to find her car had been stolen. Considering this, I think the length of time Advantage took to come to a decision on Miss B's claim, would have led to added stress and upset. Miss B says she was given incorrect information at times and I can see on at least one occasion this did happen. I can also see most of the communication was instigated by Miss B as she tried to find out the status of her claim. However, I think the £200 Advantage paid is fair compensation for the distress it caused her up to the point it made a decision regarding the claim.

Declined claim

Advantage relied on the following terms in making its decision to decline Miss B's claim.

"You, or any person in charge of your Car, must protect it from damage or loss.

- Alarms, immobilisers and tracking devices must be on and working when your Car is left unattended*
- Your Car must be fully locked and secured and any Keys that unlock your Car must be removed when it's left unattended or Unoccupied."*

I've considered whether it was fair and reasonable for Advantage to rely on this term and decline Miss B's claim. Miss B confirmed her main key was in her bag inside her living room at the time of the theft. It's not disputed that the spare key was found in the car, but she also confirmed the spare key wasn't kept in it. Advantage hasn't shown Miss B failed to lock her

car or that she failed to ensure the keys were removed from it at the time. So, I don't think it's shown either of the bulleted points stated above would apply here.

The term does require the policyholder to protect the car from loss or damage. So, I've thought about whether Advantage has shown Miss B failed to safeguard her car. I've considered whether Miss B recognised there was a risk and didn't take any action to prevent that risk.

Miss B confirmed she was provided with two sets of keys when she purchased the car. Advantage thinks she was aware the keys had been misplaced 18 months prior to the incident- this is from the time she purchased it in February 2020. But I think it's likely down to a matter of how you interpret what she said when it questioned her. Miss B told us she hadn't used the spare key since she bought the car and only realised it was missing when Advantage informed her a second key was found in the car when it was recovered. Considering she hadn't had cause to use it, on balance, I think it's unlikely Miss B was aware the spare key was missing until after the theft.

Even if Miss B knew earlier that it was misplaced, I'm not persuaded she recognised there was a risk of her car being stolen as she thought the spare key was still inside her home. As Miss B wasn't aware of a risk to her car, I don't find it reasonable to expect her to have taken steps to safeguard the car by having the locks changed, as Advantage has argued. Miss B told us she needed her car to get to her place of work, so I think she would have taken action if she knew the key was missing or might have been taken from her home by someone. Ultimately, I'm not persuaded Miss B failed to safeguard her car from theft. This is because I don't think she thought there was a risk her car would be stolen due to her misplacing the spare key and that she ignored that risk. Therefore, I don't think the decision to decline her claim was fair or reasonable.

As such, I think Advantage should pay Miss B's claim, in line with the terms and conditions of the policy. Advantage deemed the car a total loss, so it should pay the car's market value. In cases where a consumer keeps the car after it's been written off, we usually think the insurer is entitled to deduct the salvage costs from the settlement payment. I note Miss B sold the car to a third party and she told us it sold for £1,000. I think that's a good indication of what the salvage amount would have been. In the circumstances, I think it's fair for Advantage to deduct the amount she received for the car, from the settlement figure. It should add 8% simple interest per year on the amount it pays her, from the date of the incident to the date it makes the payment.

I don't think it's fair for it to charge Miss B for recovering the car from the police. The terms of the policy say it may request such costs from the policyholder if the claim is declined. As I think it should pay the claim, I think Advantage should also refund the £364 it charged her. And pay 8% simple interest per year on this amount, from the date the payment was taken until it reimburses her.

Advantage told us Miss B contacted its salvage agents and was informed that they wouldn't be able to return the car unless to someone with a breakers licence, due to the car being a category B write off. It says the only delay was in Miss B finding a company to collect the car. So, I don't think it needs to compensate for the time it took to release it.

Miss B told us she replaced her car in December 2021 and had to borrow money to settle the finance agreement on the written off car. Miss B told us she couldn't get to work without a car, and she had to take taxis and rely on others to get her there. We normally consider it reasonable for an insurer to pay £10 per day for the period in which its errors have meant a consumer had not had use of their car. Therefore, I think Advantage should pay an additional £400 in compensation for the month that Miss B was without a car to use until she

bought a new one, and for the distress its decision to decline her claim caused...”

Miss B accepted my provisional decision and Advantage didn't provide any further comments.

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.

As neither party has provided any additional comments for me to consider, I see no reason to depart from what I said in my provisional decision.

My final decision

For the reasons set out above I uphold this complaint and require Advantage Insurance Company Limited to:

- Pay the claim in line with the terms and conditions of the policy. It should pay the car's market value, less the amount Miss B received when she sold it. It should add 8% simple interest on the settlement from the date of the incident until payment is made. *
- Refund the £364 it charged her plus 8% interest per year simple from the date Miss B made this payment to Advantage to the date it issues the refund. *
- It should also pay £400 in compensation.

*If Advantage considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Miss B how much it's taken off. It should also give Miss B a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 22 February 2023.

Oluwatobi Balogun
Ombudsman