

## **The complaint**

Mr C complains about how Advantage Insurance Company Limited (“Advantage”) dealt with a claim he made on his motor insurance policy after his car was written off following an accident.

## **What happened**

Mr C has motor insurance with Advantage which started in August 2021.

Mr C was involved in a car accident in May 2022 and as a result his car was written off. Mr C says he provided Advantage with the pictures for the vehicle valuation and within a few days Advantage told him he owed £600. Mr C says he was shocked since he was expecting settlement of around £2700.

Mr C contacted Advantage who explained there was finance on the vehicle which was deducted from the overall valuation. And this was the reason the settlement wasn't what Mr C was expecting. Mr C says the finance was taken out in 2018 which was two years before he made a cash purchase for the car.

Mr C says he carried out a HPI check on the vehicle before he purchased it but that didn't reveal any outstanding finance on the car. Advantage told him since there was finance on the car it would not pay Mr C's claim directly to him. Instead it would pay the finance company. Mr C says this left him without his car, and without his settlement. Mr C also had to return his courtesy car and so he was left with no form of transport.

Advantage told Mr C he would need to contact the finance company and the previous owner of the car in order to deal with the matter further.

Advantage said Mr C could retain the vehicle and pay the remainder of the car cost after the salvage fee was taken. This totalled approximately £700.

Mr C says the whole matter has been very stressful. He wants Advantage to pay him the settlement money which he says he is entitled to. So Mr C complained to Advantage.

Advantage said it inspected Mr C's car and deemed it a total loss. While processing the claim it ran a Motor Insurance Anti-Fraud & Theft Register check which showed there was outstanding finance on the vehicle. It said as an insurer it had a responsibility to pay out the person or company who held a financial interest in the car. And since there was outstanding finance it would have to pay the company for the settlement of the total loss.

Mr C wasn't happy with the response from Advantage and so brought the complaint to this service. Our investigator looked into things for him. She said having reviewed the evidence she didn't think Advantage had treated Mr C fairly. She said Mr C demonstrated his ownership of the car and that he had good title. So she said Advantage should pay Mr C's claim in line with the terms and conditions of the policy. The investigator recommended

Advantage pay Mr C £500 in recognition of the distress and worry caused to him by incorrectly declining the claim.

Advantage disagreed. It said it had been court ordered to settle the claim in this way and that the Hire Purchase Act 1964 referred to by the investigator seemed outdated. And so the complaint has come to me to decide.

### **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.

Having done so, I'm going to uphold it.

Advantage paid the settlement for the vehicle to the insolvency service because the finance company was wound up. Advantage said it did this because it was court ordered to deal with the claim in this way.

As part of my review of this matter I asked Advantage for a copy of the Order which explicitly directed it to settle the claim in the manner it did. Advantage provided me with a copy of the Order for winding up the finance company. But the fact the finance company was wound up was never in dispute.

Advantage said the Hire Purchase Act 1964 referred to by the investigator seems outdated since anyone can now do their due diligence when purchasing a new car. But I don't agree. The Act is current legislation and is therefore still relevant.

I carefully reviewed the detailed submissions from both parties. I didn't see anything that persuaded me Advantage were directed to settle the claim in the way it did. And I don't consider it was fair and reasonable.

Mr C purchased the car privately and didn't take out any finance to purchase it. At the time of purchase and until the accident Mr C wasn't aware the car was subject to any finance. I've seen evidence of the checks carried out and I'm satisfied these show there was no outstanding finance on the car. I know Advantage have said the checks were carried out after the vehicle was purchased. But on balance it's likely the outstanding finance wouldn't have appeared had the checks been carried out earlier given the marker wasn't removed on settlement of that finance.

Mr C purchased the vehicle as a private buyer for his own personal use. He has always maintained he purchased the car in good faith and his testimony has remained consistent throughout this matter. So I'm satisfied he's got 'good title' to the car which gives him the right to keep and own the car.

Advantage have relied on the terms and conditions which say, *"If you are still paying for your car under a hire purchase or leasing agreement your insurer may at their option, and where appropriate, pay a claim for the total loss of your car to the hire purchase or leasing company."* But Mr C wasn't paying for his car under a hire purchase or lease agreement. And the lease agreement here was from two years before Mr C purchased his car. Mr C provided evidence which shows the car was a cash purchase. And so I don't think it's fair for this term to be applied in this situation.

I can see Mr C has suffered considerable stress and anxiety as a result of this matter and I empathise with the situation he has found himself in. I've thought about the impact this matter is likely to have had on Mr C. His insurance policy is meant to put him in the position

he was in before the accident, so he was expecting a settlement which would allow him to purchase a replacement vehicle. And so when Advantage didn't pay the claim directly to Mr C the impact would have been significant.

Our investigator said Advantage should pay Mr C £500 in compensation for the distress and inconvenience caused. I've thought about this carefully. It's not our role to punish businesses where they haven't acted fairly towards consumers. But given the circumstances described by Mr C, the time taken to settle the claim, being provided with incorrect information, being left without means to purchase a new car, I agree with the investigator. I think this recommendation is a fair one that falls in line with our service's approach and what I would have directed had it not already been made.

### **Putting things right**

Advantage should;

- pay Mr C the claim in line with the policy.
- add interest to this at a rate of 8% simple per year from the date of Mr C's claim until the date it makes payment.
- Pay Mr C £500 for the distress and inconvenience caused

### **My final decision**

For the reasons set out above I uphold this complaint and direct Advantage Insurance Company Limited to do what I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 23 June 2023.

Kiran Clair  
**Ombudsman**