

The complaint

Mrs W and Mr W complain that Advantage Insurance Company Limited disposed of their car's salvage following a claim made on their motor insurance policy. Mrs W is represented in this matter by Mr W, a named driver on her policy. Mr W wants compensation for the upset caused and their financial losses.

What happened

Mrs W's car was damaged in an incident and Advantage declared it to be a total loss. Mr W had told Advantage that they wanted to retain the salvage even if it was written off. But Advantage's agent sold the salvage by mistake.

Mr W said he intended to buy back the salvage and repair the car. Mr W said he could have repaired the car for under £1,000 whilst Advantage's repairer estimated the repairs costs at about £3,000. After the complaint came to us, Advantage offered Mrs W £300 compensation for the trouble and upset caused. But Mr W wanted compensation for his financial loss.

Our Investigator recommended that the complaint should be upheld. She saw that the pre-loss market value of Mr W's car was £3,500 whilst the salvage value was about £663. Mr W provided evidence to show that he could have repaired the car for £454 for labour and £877 for second-hand parts to repair the car to a similar standard to that Advantage would have done. She also thought that it was fair to deduct 20% from the car's value because of the salvage marker and to deduct the £395 policy excess.

So she thought Advantage's error had caused Mr W a loss of £361. And so she thought Advantage should pay Mrs W this amount, with interest. But she thought Advantage's offer of £300 compensation for the trouble and upset caused by this matter was fair and reasonable.

Advantage replied that it had already put Mrs W back in the same position she was in before the accident by paying her the car's market value. And it thought the recommended redress would lead to betterment. It also thought Mr W's repairs estimate didn't include all the needed parts and the repairs may find other damage. It thought its compensation offer was fair and reasonable for the trouble and upset caused.

Mr W replied that the policy excess had already been deducted from the settlement. He thought the parts could be bought for £450 and the 20% deduction for the salvage marker wouldn't apply as they didn't intend to sell the car.

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.

I can see that Advantage accepts that Mr W made it clear before the car was taken for assessment that they wanted to retain the car's salvage even if it was a total loss. Our approach is that when a car is "written off" and deemed a total loss under a motor insurance

policy, as Mr W's car was, the insurer, in this case Advantage, becomes the owner of the salvage only after the consumer accepts payment of the car's full market value.

Our stance is that if the consumer asks to keep the salvage, we expect the insurer to allow this. The car is, after all, the consumer's property and they should have the right to keep it if they wish to do so. However, in that event, the insurer is entitled to deduct from its settlement offer what it would have been able to sell the salvage for.

When a business makes a mistake, as Advantage accepts it has done here, we expect it to restore the consumer's position, as far as it's able to do so. And we also consider the impact the error had on the consumer.

Advantage thought compensating Mr W for his financial loss would lead to betterment. But, as it has accepted, it needs to restore Mr W's position. And, but for its error in disposing of the salvage, Mr W would have received a reduced settlement and been able to retain his car's salvage and carry out repairs. So our approach is that it's fair and reasonable to consider the trouble and upset caused as well as the financial loss in order to restore Mr W's position.

So I've considered the financial loss Mrs W was caused. The starting point for my consideration is the car's pre-loss market value of £3,500. Advantage said the salvage value was about £663 and this is what should have been deducted from the settlement if the car had been retained.

The car would then be considered a previous total loss and it would be less attractive to potential buyers. Mr W said he didn't intend selling the car, but I can't rely on this as things may change. And as Advantage has agreed to pay the car's full market value, I think it's fair and reasonable to reduce its value by 20% due to the salvage marker.

The policy excess is always payable as the first part of a claim, and I haven't seen that Mr W paid this separately. So I think it's fair and reasonable to deduct the policy excess of £395.

I have then considered the repairs needed to restore the car. Advantage's engineer's estimate was for over £3,000. But it accepts that consumers may be able to achieve cheaper repairs that use second-hand parts and don't have the same repairs guarantee. And I'm satisfied that Mr W's estimates for the correct parts, from his research, and labour, from his garage, provide a fair estimate of the costs he would have incurred in having the car repaired.

Advantage thought that the repairs, if carried out, may have found more damage. But I haven't considered this as it's hypothetical. Advantage also thought Mr W's estimate didn't include all the needed repairs. But I've relied on his garage's review of Advantage's own report, and so I think that provides a sufficient estimate.

Mr W lately thought he could source cheaper parts, but I think it's fairer to rely on his initial estimate for similar parts to repair the car to provide a more accurate estimate. So I think deductions should then be made for the repair costs of £454 for labour and £877 for parts.

So, I'm satisfied that because of Advantage's error, Mrs W has suffered a financial loss of £361. And I think Advantage should pay her this amount. And, because Mrs W has been without her money for some time, I think Advantage should add interest to this amount.

Advantage paid Mrs W £100 compensation and then it offered to increase this to £300 to take into account the trouble and upset caused. I think that's fair and reasonable as it's in keeping with our published guidance where an error has had a significant impact over some months.

Putting things right

I require Advantage Insurance Company Limited to do the following:

1. Pay Mrs W £200 further compensation (£300 in total) for the distress and inconvenience caused by its handling of her claim, as it's already agreed to do.
2. Pay Mrs W £361 for her financial loss caused by its error. Interest should be added to this amount at the rate of 8% simple per annum from the date of initial settlement to the date of payment†.

†If Advantage considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs W how much it's taken off. It should also give Mrs W a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons given above, my final decision is that I uphold this complaint. I require Advantage Insurance Company Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 18 September 2023.

Phillip Berechree
Ombudsman