

## **The complaint**

Mr W complains about Advantage Insurance Company Limited ("AIC") and the service they provided after he made a claim on his motor insurance policy. This included the condition of his car once it was returned to him, and the valuation placed on it.

## **What happened**

In January 2023, Mr W's car was damaged. So, he contacted AIC, the underwriter of his motor insurance policy, to make a claim. Mr W's car was collected by a third-party agent, who I'll refer to as "C", who inspected the car and deemed it to be a total loss. Mr W chose to retain the car, paying a retention fee so it could be returned to him.

But Mr W was unhappy with the length of time this process took. And he was unhappy with the condition of his car when it was returned, both externally and internally, as well as the valuation place on his car overall. So, he raised a complaint about all the above.

AIC responded to the complaint and upheld it. In total, they offered to pay Mr W £270 to recognise the delays in returning his car, and the impact this had. And they noted C themselves had offered to pay Mr W £140 to recognise the external and internal damage to his car. But both AIC and C disputed being responsible for the damage to Mr W's ECU, as they didn't think an error they made had led to the water ingress seen within the car.

Mr W didn't agree with this response, so he referred his complaint to us. And while the complaint was with our service, Mr W obtained reports from independent garages confirming the ECU was damaged due to water ingress and, that Mr W's car seals were intact. So, the car itself didn't present any faults that would lead to water ingress inadvertently.

Our investigator looked into the complaint and upheld it. They were satisfied the compensation offered to Mr W for the delays he experienced was a fair one and so, they recommended AIC pay any outstanding amounts. And they were satisfied the valuation placed on Mr W's car was fair, calculated in line with standard industry approach.

But they thought, based on C's admittance and balance of probabilities, that the damage to the external, and internal, of Mr W's car was caused by an error made while the car was stored with C. And they noted C were acting as an agent of AIC. So, they thought AIC were responsible for this. So, they thought AIC should cover the costs required to repair the external scratches, and the ECU issue, or that AIC should arrange these repairs themselves. Finally, they thought AIC should cover the costs of the reports Mr W obtained to support his position, plus 8% simple interest from the date he paid for them to the date of refund.

Mr W accepted this recommendation. But AIC didn't, as they didn't think it was reasonable for them to be expected to pay a significant amount to repair an ECU on a car already deemed uneconomical to repair. So, they offered to take the car back, refund Mr W the retention fee he paid, and increase their offer of compensation.

Mr W and AIC then entered into a mediation process, submitting differing ways they felt the complaint could be resolved. But ultimately, Mr W and AIC couldn't agree. And our

investigator maintained their recommendation that, to place Mr W back in the position he would've been in had AIC acted fairly, the ECU should be repaired by AIC, or the costs of this repair covered by them instead. AIC continued to disagree and so, the complaint has been passed to me for a decision.

### **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 upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

I note that Mr W initially accepted our investigators outcome. And AIC dispute the recommendation, rather than our investigations findings on the merits of the complaint. So, I think it's reasonable for me to assume that the actual merits of Mr W's complaint are no longer in dispute.

But, for completeness, I want to reassure Mr W and AIC I reviewed all the evidence available to me. And having done so, I'm satisfied the valuation placed on Mr W's car by AIC was a fair one, calculated in line with the approach I'd expect.

I also agree that there have been elements of poor service during the claim process, which included confusion caused to Mr W and the delay in his car being returned to him, as well as communication around this. But I'm satisfied the compensation already put forward to address this by AIC is a fair offer and so, I'm in agreement with our investigator that AIC don't need to pay any additional amount regarding this. But I would expect them to ensure any outstanding payments relating to this offer is paid.

From what I've seen, I think the main issue that has been disputed centres around the condition of Mr W's car when it was returned to him. Again, I note both Mr W and AIC seemed to accept that AIC were ultimately responsible for the damage, both externally and internally. C have already accepted the scratches caused to the body of Mr W's car were their fault and so, I won't discuss this aspect any further. But I note the water damage found inside Mr W's car has been more contentious as so, I do think it would be useful for me to provide my own findings regarding this.

I've seen videos and photos of Mr W's car, before it was taken by C. And I think these show Mr W's car to be in a good condition, with no identifiable external or internal damage. And I think this is supported by C's own inspection report, dated 14 February 2023, which listed the condition as fair and crucially answers "No" to the marker "*Flood damage*".

So, I'm satisfied that on this date, almost two weeks after Mr W's car had been collected, there was no flood damage present in Mr W's car. But I've seen a video showing the condition of Mr W's car when it was returned on 2 April. And this shows that in the footwell of his car, there was significant moisture present, as well as visible signs of mould that suggests the damp had been there for some time. And I've seen in the reports obtained by Mr W since, which confirm the electrics around this area have been compromised, resulting in a repair or replacement of his cars ECU to be needed.

So, based on the above, I think that, based on the balance of probabilities, the water ingress into Mr W's car occurred between 14 February and 2 April. And this is when the car was in the care of C, who were acting on behalf of AIC. So, I think AIC ultimately remained

responsible for any errors or mistakes made by C during this time.

And based on the reports provided by Mr W, obtained from independent experts, I'm satisfied the seals to Mr W's car remained intact and were in good condition. So, based on this and the balance of probability, I think water ingress most likely occurred through an error made by C, who openly admitted the car was stored outside while it was in their care. So, I do think AIC were ultimately responsible for the water ingress and so, I've then thought about what I think they should do to put the damage this ingress caused right.

### **Putting things right**

When thinking about what AIC should do to put things right, any award or direction I make is intended to place Mr W back in the position he would've been in, had AIC acted fairly in the first place.

In this situation, had AIC acted fairly, then I think Mr W's car would've been stored and transported by AIC in a way that ensured it was returned to him in the condition C received it, before they completed their inspection. And had they done so, I don't think it would've been returned with the scratches to the bodywork, or the water damage to the inside, including the damage to the ECU caused by this ingress. And I'm satisfied this is what Mr W expected when he chose to retain the car, which he was entitled to do.

So, to place Mr W back in this position, I think AIC should ensure the scratches to Mr W's car, and the damage to its ECU, is repaired, to place him back in the position he should've been in. And this is irrespective of it being deemed uneconomical to repair. I must stress this direction is only for the scratches and the repair to the ECU, as I think Mr W took the car back understanding he would need to burden the cost of the repair work needed to the damage caused by the actual incident he originally claimed for. AIC can action this direction by agreeing to repair the car themselves, or they can pay Mr W a cash settlement that allows him to ensure this work is completed himself.

And had AIC acted fairly, I don't think Mr W would've needed to approach independent experts to obtain reports that supported his position. So, I think AIC need to reimburse Mr W for the amount he paid for these reports, plus 8% simple yearly interest from the date of payment to the date of refund.

And finally, while I note the compensation AIC have already offered is a fair offer to address the service issues he experienced, I'd expect AIC to ensure any outstanding payments left to complete the full compensatory amount are made as soon as reasonably possible.

### **My final decision**

For the reasons outlined above, I uphold Mr W's complaint about Advantage Insurance Company Limited and I direct them to take the following action:

- Arrange for the repair of the scratches and ECU, or pay Mr W a cash settlement that allows him to ensure this work is completed himself;
- Refund Mr W the amount he's paid for the independent reports, plus 8% simple yearly interest from the date he paid them to the date of refund; and
- Ensure the total compensatory amount offered to Mr W in their final response letters are paid, if it has not been already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 12 December 2023.

Josh Haskey  
**Ombudsman**