

The complaint

Mr H complains that Advantage Insurance Company Limited mishandled his claim on a motor insurance policy.

What happened

The subject matter of the claim and the complaint is a hatchback car, first registered in 2014. Mr H had the car insured on a comprehensive policy for the year from June 2022. Mr H agreed to pay the yearly premium of about £1,700.00 by instalments.

The policy was branded with the name of an insurance intermediary. Advantage was the insurance company that was responsible for dealing with any claim.

The policy terms included the following:

“4. Alcohol and drugs

You’re not covered if an accident happens while you or anyone entitled to drive under your current Certificate of Motor Insurance:

- Is found to be over the prescribed limit for alcohol in the country where the incident happens*
- Is driving while unfit through alcohol, drugs or other substances, whether prescribed or not*
- Doesn’t provide a sample of breath, blood or urine when required to do so, without lawful reason.”*

In December 2022, Mr H and his car were involved in an accident that caused damage to the front nearside of the car. Police breathalysed Mr H and found 66mg of alcohol per 100ml of breath, which is almost double the legal limit.

Much of Mr H’s complaint is about acts or omissions of the intermediary acting as claims-handler on behalf of Advantage. Insofar as I hold Advantage responsible for such acts or omissions, I will refer to them as Advantage’s.

By a letter dated 9 February 2023, Advantage turned down Mr H’s claim. It said that it had paid the authorities £362.25 to get the car back. As its salvage company had sold Mr H’s damaged car for £1,200.00, Advantage offered to send Mr H a payment as follows:

sale proceeds	£1,200.00
less storage costs	£ 362.25
total	£ 837.75

Mr H complained to Advantage that it had sold the car without his authorisation.

By a final response dated early March 2023, Advantage apologised. It offered to send Mr H the £1,200.00 and said it had not yet paid the £362.25 to its salvage agent.

Advantage sent Mr H a cheque for £837.75.

our investigator's opinion

Our investigator recommended that the complaint should be upheld. He thought that Mr H had told Advantage of his intention to retain the salvage prior to the sale of his vehicle. The investigator said he would've asked Advantage to offer £500.00 for the distress and inconvenience caused, but as they'd paid the storage and recovery costs, he was only recommending that Advantage should pay a further £150.00 to make up for their error.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr H and to Advantage on 9 November 2023. I summarise my findings:

Advantage's salvage agent was wrong to sell Mr H's car. I held Advantage responsible for that.

Mr H hadn't provided enough evidence that the damaged car was worth any more than the £1,200.00 that Advantage received.

As it declined the claim (and I wasn't not dealing with a complaint about that), I didn't find that Advantage treated Mr H unfairly by deducting the £362.25 from the £1,200.00 and sending Mr H a cheque for the balance of £837.75.

For his level of distress and inconvenience, I found that compensation of £500.00 would be fair.

Subject to any further information from Mr H or from Advantage, my provisional decision was to uphold this complaint in part. I intended to direct Advantage Insurance Company Limited to pay Mr H (insofar as it hasn't already paid him) as follows:

for the damaged car	£1,200.00
less storage charges	£ 362.25
sub-total	£ 837.75
for distress and inconvenience	£ 500.00
total	£1,337.75

Advantage hasn't responded to the provisional decision. But I understand that Advantage has previously agreed to pay the above sums.

Mr H disagreed with the provisional decision in part. His father says, in summary, that:

- The sale of his son's car has nothing to do with his drink/driving.
- Advantage dealt with the sale of the car despite him phoning and emailing them.
- Before mid- February, Advantage said in emails and phone calls they would not sell the car.

- He asks why he never saw any quote or correspondence from Advantage saying it would cost over £12,000.00 to repair the car. If that was the case, Advantage would've scrapped the car and not sold it via an auction.
- After Advantage sold the car, Mr H and his father couldn't get an estimate for repair themselves. A friend is a body repair specialist, and a family member is a mechanic. They looked at the photographs and thought about £1,500.00 - £2,000.00 for parts etc. but they would not charge for labour.
- Its value would have been about £4,000.00.
- He has no record that anyone from Advantage has spoken to or emailed him to actually say sorry.
- He has done all the chasing and making phone calls, for 3-4 months when working full-time away from home quite often. People didn't return calls.
- His son worked hard to pay for that car, he owned the vehicle outright.
- A more reasonable amount of £2,500.00 upwards is a more acceptable amount, as his son will never see his first car again.

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.

Scope of this final decision

The Financial Ombudsman Service is bound by the Financial Conduct Authority's dispute resolution rules. One of those rules means that, before we can investigate a complaint, the consumer must first have made that complaint to the regulated firm and waited for up to eight weeks for a final response. It follows that we can usually only investigate the complaint that was made before the final response.

Mr H emailed Advantage in mid-February 2023 complaining specifically about the sale of the car. So this final decision will deal with that complaint rather than any other aspects of Advantage's service.

Sale of the car

Advantage's salvage agent was wrong to sell Mr H's car. I hold Advantage responsible for that.

We don't assess compensation at a level intended to punish or deter unfair acts or omissions. Rather, we look to compensate any financial loss or distress and inconvenience caused to the policyholder by unfair acts or omissions.

Mr H says that he could've got the car repaired by a friend for about £1,500.00. But he hasn't provided enough detail of any estimate for the repair work. And the salvage company's estimate for the cost of repairs was about £12,000.00. So I'm not persuaded that Mr H could've got the car repaired to a roadworthy standard for as little as £1,500.00.

Moreover, Mr H hasn't provided enough evidence that the damaged car was worth any more than the £1,200.00 that Advantage received.

Mr H's response to the provisional decision

I accept that Mr H had worked hard to pay for the car.

His father regards the drink- driving and the accident as separate from the sale of the car. But the accident led to the claim and Advantage turned down the claim because of the drink driving. It is relevant for me to mention this because it explains how Advantage came into possession of the car and regarded it as a total loss, before turning down the claim and selling the car without meeting the claim.

I wouldn't expect Advantage to have shared with Mr H the estimate for repairs, especially as it greatly exceeded the pre-accident value of the car. I think Mr H is mistaken that this meant that Advantage would've "scrapped" the car rather than sold it. Advantage's salvage agent said the car was "Category S". I would expect Advantage to have sold the damaged car through the salvage agent – but only if and when it had met the claim.

I accept Mr H's father's statements that he contacted Advantage to ask to keep the damaged car- and Advantage agreed. Even if there had been no such contact or agreement, Advantage shouldn't have sold Mr H's car without his consent unless it was settling his claim.

I also accept that, after the sale, Mr H didn't have access to the vehicle to arrange an assessment. Nevertheless, the key question is the value of the damaged car. In part, that is to do with the cost of repairs against the value of the car after repairs.

I have no reason to doubt Mr H's father's statement that he had contacts through whom he could've got the car repaired for about £1,500.00 - £2,000.00. That meant, in my view, that the car was more valuable to Mr H than to others who would've had to pay for labour.

Nevertheless, I've found that Mr H hasn't provided enough evidence that the damaged car was worth any more than the £1,200.00 that Advantage received.

Mr H's father doesn't recall any apology. However, Advantage sent him its final response in March 2023 containing the following:

"...it has resulted in the vehicle being sold, unfortunately and I am so sorry for that"

Mr H's father's says that he did all the chasing while working full-time and Advantage didn't always return his calls. However, I've said that this final decision deals with the complaint specifically about the sale of the car, rather than any other aspects of Advantage's service. Also, Mr H was the policyholder.

I see no reason to change my view that £500.00 is fair compensation for the distress and inconvenience caused to him by Advantage's shortcomings.

Putting things right

I accept that, in accounting for the £1,200.00, Advantage has deducted £362.25 for storage and other costs it incurred in recovering the damaged car before it declined the claim. As it declined the claim (and I'm not dealing with a complaint about that), I don't find that Advantage treated Mr H unfairly by deducting the £362.25 from the £1,200.00 and sending Mr H a cheque for the balance of £837.75.

Mr H told us that he hadn't cashed the cheque. However, I consider that he could've cashed it and continued to pursue his complaint. So I don't find it fair and reasonable to direct Advantage to pay interest on that balance.

Nevertheless, the car had been Mr H's first car and he'd wanted to keep it after the accident. So I don't under-estimate the annoyance and frustration the sale caused to Mr H. He felt that Advantage had ignored his wishes and violated his rights of ownership. For that level of distress and inconvenience, I find that compensation of £500.00 is fair.

In conclusion, I find it fair and reasonable to direct Advantage to pay Mr H (insofar as it hasn't already paid him) as follows:

for the damaged car	£1,200.00
less storage charges	£ 362.25
sub-total	£ 837.75
for distress and inconvenience	£ 500.00
total	£1,337.75

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Advantage Insurance Company Limited to pay Mr H (insofar as it hasn't already paid him) as follows:

for the damaged car	£1,200.00
less storage charges	£ 362.25
sub-total	£ 837.75
for distress and inconvenience	£ 500.00
total	£1,337.75

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 14 December 2023.

Christopher Gilbert
Ombudsman