

## **The complaint**

Mr R has complained about the fact that Admiral Insurance (Gibraltar) Limited has refused to deal with his claim under his motor policy.

Mr R is represented by his wife. However, I shall just refer to Mr R throughout for ease of reference.

## **What happened**

Mr R was involved in an accident on a motorway in February 2023. He made a claim to Admiral for the damage to his car. Admiral said his car was a total loss.

In investigating Mr R's claim, Mr R initially said he paid more for his car than he had. Admiral believed this was a fraudulent attempt to mislead it, so it refused to deal with Mr R's claim.

Mr R complained. Admiral admitted some service issues were below its usual standard and paid him £150 compensation, but it maintained it wouldn't deal with his claim given he had tried to mislead it.

Mr R then brought his complaint to us. The investigator was of the view it should be upheld. Admiral didn't agree so Mr R's complaint has been passed 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 upholding this complaint along the same lines as the investigator. I'll now explain why.

Mr R from the start has ensured the fact his sister-in-law owns the car was known to Admiral from the time this car was added to the policy. Admiral initially accepted that and was prepared to pay his sister-in-law the market value. So, obviously at that stage Admiral was content she was the person to receive the market value of this car. We've asked Admiral to explain their process for paying settlements in this way where the owner isn't the policyholder, but we haven't received any answer. Like the investigator I don't consider Mr R misled Admiral that he wasn't the owner, and that payment should be made to his sister-in-law. Admiral also said it withheld paying the claim solely for proof of purchase issues and not any other reason.

There's no doubt and no dispute that Mr R initially said he paid more for the car than he did. He said initially he paid £24,000 for the car. In fact, he has only been able to show Admiral that he paid £9,000. Mr R said he claimed to have paid more than he did because it was just banter over the valuation of the car. He also later said he believed he bought the car for a low price and was intending to sell it for a higher price except for the accident.

Admiral's file shows that by 10 March 2023 Mr R had shown proof that he bought the car for £9,000. But not for the £24,000 Mr R initially said he bought the vehicle for. Mr R initially said some of the funds used to pay £24,000 came from cash he had saved. However later Admiral's investigator noted Mr R then confirmed he bought the car for only £9,000. It does appear from Admiral's file that adequate confirmation was received from Mr R that he paid £9,000 for the car. And further Admiral's file doesn't show it to have any issues over the evidence showing the fact Mr R paid £9,000. Admiral's remaining issue was the lack of any proof from Mr R that he had paid a total of £24,000 for the car. The proof for this extra £15,000 wasn't provided by Mr R. And this is the reason why Admiral initiated its further investigations. I also don't consider Admiral did anything wrong in initiating the further investigations given the lack of veracity of Mr R's evidence that he paid £24,000 for the car when he could only prove paying £9,000.

Whilst I have some sympathy with Admiral's concerns over this, it remains its file doesn't show it had any issues over the proof that Mr R could show he paid £9,000 for the car. Therefore, I consider on balance - in the absence of any issues raised by Admiral on the standard of the proof provided by Mr R that he did pay £9,000 - it's more likely Mr R did in fact only pay £9,000 as he has shown Admiral.

Admiral also contends Mr R attempted to mislead it over the circumstances of the accident, but I haven't seen any evidence of this in Admiral's file. It appears to have been a motorway accident involving three vehicles the last one being Mr R's car.

Admiral further says firmly that Mr R deliberately tried to mislead it over the purchase price in order to make his claim exaggerated or inflated. And it said that was fraudulent. So, on that basis, it relied on the relevant clauses in its policies to allow it to not deal with Mr R's claim, namely the following:

*'General Condition 9: Fraud and misrepresentation*

*You must always answer our questions honestly and provide true and accurate information. If you, any other insured person, or anyone acting on your behalf, provides:*

- false, incomplete, exaggerated or misleading information, or*
  - false, altered, forged or stolen documents,*
- we will do one or more of the following things*
- change your policy to show the correct information, and change the premium accordingly*
  - cancel your policy immediately*
  - declare your policy void*
  - refuse to pay any claim or only pay part of a claim*
  - keep the premium you have paid*
  - recover any costs from you or any other insured person*
  - cancel or void any other EDI policies you are connected with.'*

And

*'General Condition 17: Requests for information*

*You must respond to all requests for documentation during your period of insurance and during the administration of a claim.*

*You may be asked to provide:*

- documents to confirm the details on your Motor Proposal Confirmation*
- documents, data and other media relating to your vehicle or claim*
- financial statements and utility bills*
- receipts and invoices*
- documents, data and other records to validate your claim*
- driving licence information*

- *proof of your No Claims Bonus*
- *travel documents*
- *proof of alternative insurance.*

*Failure to supply this information when requested will result in your claim being refused and/or your policy being cancelled.'*

In circumstances like this where an insurer believes a claim is fraudulent, the provisions of the Insurance Act 2015 allow insurers like Admiral here, to decline the pay the claim, and/or cancel the policy and keep the premium paid and/or require the consumer to repay any money the insurer might have already paid out.

However, there is also no dispute that what Admiral insured here was the market value of the car. The policy terms clearly say this as follows:

*'We will decide how to settle your claim and will either pay:*

- *to repair your vehicle*
- *a cash sum to replace the damaged vehicle. If we give you a cash sum, the most we will pay is the market value of the vehicle.'*

So other than noting the car was properly transferred to the owner namely Mr R's sister-in-law, all that would ever be paid by Admiral in the event of a total loss is the market value of the car.

In July 2016, the Supreme Court decided in the case of (Versloot Dredging v HDI Gerling Industrie Versicherung AG) that the fraudulent claims rule doesn't apply in some circumstances. It said a claim isn't dishonest or fraudulent if the lie is told with the aim of improving the consumer's position, when in fact it doesn't improve the consumer's position at all. This is because like in this instance here, whatever Mr R said he paid for the car doesn't mean Admiral will ever end up paying more than the market value of the car.

That clearly shows me that the Supreme Court wouldn't agree with Admiral that Mr R's lies about how much he said it cost him to buy the car, then allow it to refuse to deal with the claim. This is because it can't make any difference to what the market value of this car is, which is all that Admiral were insuring, and which was the maximum amount Admiral was under a duty to pay.

Therefore, whilst I do sympathise with Admiral's thoughts on this matter, I don't consider its decision to refuse to deal with this claim is correct in law. So, I consider it should now deal with this claim under the remaining terms and conditions of the policy.

Mr R had also complained about several service issues around a lack of communication. Admiral acknowledged this and paid Mr R £150 compensation. I think this amount is fair and in line with our approach on such issues, so I don't consider Admiral needs to pay more compensation.

There is also an issue that a mobile phone belonging to Mr R's son went missing after the accident. Apparently, the recovery operative said he had put it in the glove box but then it was never found afterwards. The policy does provide cover for loss of personal belongings which if Mr R wishes, he should request Admiral deal with this element also.

**My final decision**

So, for these reasons, it's my final decision that I uphold this complaint.

I now require Admiral Insurance (Gibraltar) Limited to deal with Mr R's claim under the remaining terms and conditions of the policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 5 March 2024.

Rona Doyle  
**Ombudsman**