

## **The complaint**

Mr W says when he made a claim on his motor insurance policy Advantage Insurance Company Limited made the wrong decision about his liability for an accident.

## **What happened**

Mr W wanted to turn right out of a car park. There was a queue of cars in the road directly outside the car park, delayed by roadworks ahead. Another driver allowed Mr W into the lane, and he says he then edged forward onto the other side of the road, where the corner of his vehicle's front passenger side was hit by what he says was a speeding car.

Mr W insisted the other driver was wholly to blame for the accident. But Advantage said that he had crossed into the path of a car that was proceeding correctly - and that the other car's speed couldn't be proved. It paid Mr W £100 for its short delays in the process. Mr W didn't accept that he was at fault, and he was very unhappy that his future premiums would rise.

Mr W's repairer then told him Advantage should have asked the other insurer for data from the other car, which could have shown at what speed it was travelling. Advantage didn't think that was necessary and it told Mr W the other insurer was unlikely to co-operate anyway. But in the end it asked for the data - which the other insurer refused to provide.

One of our investigators reviewed Mr W's complaint. She thought Advantage had acted reasonably in using its discretion to settle the claim as it did, and that the £100 compensation it had paid Mr W for short delays was also reasonable. Mr W said he was entitled to the data from the other car, which he said Advantage should have sought without a prompt from him. In his opinion, it hadn't investigated the accident properly.

As there was no agreement, the complaint was passed to me for review.

## **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.

Under the policy, Advantage has the right to decide how to settle any claim. We would only intervene if we thought it hadn't acted fairly and reasonably in reaching its decision.

In this case, Mr W told Advantage that part of his vehicle entered the opposite side of the road before the collision. He thinks it was wrong for Advantage to suggest that he should have waited for the traffic to clear, as there was a queue all day at that part of the road. But I can see Advantage's point. Had Mr W waited for the stationary cars on his left to move forward, he'd have had a better view of any oncoming cars, and they could have seen him.

I think it was fair for Advantage to decide that Mr W had put his vehicle into the path of a car that had right of way, and that by doing so he was at fault. Mr W says if the other car hadn't

been driving too fast, the collision could have been avoided. I don't think it was wrong for Advantage not to agree with that, as it isn't necessarily the case. It depends where the other car was when Mr W's car emerged onto its side of the road. It's not possible to stop a car immediately, even if a driver *isn't* speeding.

In my opinion, it was for Advantage to decide whether to ask for data from the other car. It didn't think the data would be particularly useful, given that it had already decided Mr W's actions meant he was at fault for the accident. That meant his premiums would be affected, even if the other driver could be shown to be partly at fault – which may well not have been possible. Mr W thinks he was entitled to the data, but the decision about whether to provide it was for the other insurer to make.

As the other insurer didn't accept any liability for the collision, Advantage had to settle the claim or face legal proceedings. In order to defend Mr W in court, it would have had to be sure there was a good likelihood of success. We think it's fair for insurers to consider the prospects of success against the cost of proceedings. I think it was reasonable for Advantage to decide to settle the matter, given that the available evidence showed Mr W's vehicle had entered a lane where oncoming traffic had right of way.

I think Advantage acted reasonably in apologising to Mr W for the limited delay in processing his claim, and in paying him £100 compensation. And I think it acted fairly and reasonably in deciding to accept liability for the accident. So I can't uphold Mr W's complaint.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 1 March 2024.

Susan Ewins

**Ombudsman**