

The complaint

Miss S complains that Advantage Insurance Company Limited (Advantage) didn't properly investigate a claim under her motor insurance policy and accepted liability on her behalf without her knowledge. She's also unhappy with the overall service Advantage provided during her claim.

What happened

On 15 August 2022, Miss S was involved in a road traffic accident. She explained that whilst reversing her car from a parked position a third party hit her vehicle in the rear. She explained the third party had pulled away from a parked position and was on the wrong side of the road at the time of impact.

She provided Advantage with a detailed report of what happened and told them there were cameras at the nearby train station that may have captured the incident. Advantage didn't obtain the CCTV. They accepted liability on the claim in October 2022 but didn't communicate this with Miss S at the time. She discovered this several months later when her father called Advantage on her behalf for an update.

Unhappy with this and the overall handling of her claim, Miss S complained to Advantage. They accepted they hadn't requested the CCTV footage which was an oversight on their part but based on the circumstances of the accident they didn't feel the CCTV footage would've changed their liability decision. They accepted their service fell short and sent a cheque for £75 to compensate for it.

Miss S referred her concerns to this service. Our investigator felt Advantage had acted reasonably in concluding the CCTV wouldn't have impacted liability. But felt that £150 more fairly reflected the impact of the poor service provided. Advantage accepted this but Miss S didn't agree. So it 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.

I'd like to reassure both parties that whilst I'm aware I may have condensed some of the complaint points in far less detail and in my own words, I've read and considered everything they've told us. I'm satisfied I've captured the essence of the complaint and I don't need to comment on every point individually, or possibly in the level of detail they would like, in order to reach what I think is a fair outcome. This isn't meant as a discourtesy, but it simply reflects the informal nature of our service.

Advantage has a responsibility to handle claims promptly and fairly, provide information on the claims progress, and they shouldn't decline a claim unreasonably.

It isn't my role to determine who is at fault for an accident, but I can consider if Advantage handled the claim fairly and reasonably. The policy terms and conditions set out the agreement between Advantage and Miss S. In relation to claims it says:

When claiming under this Policy

"You must co-operate fully and in a way so as not to compromise the resolution of your claim. Examples may include providing information critical to the investigation and settlement of the claim, providing evidence and attending court. When defending or settling a claim, your Insurer is entitled to instruct the solicitors of their choice to act for you in any proceedings. If they feel it's appropriate, your Insurer will be entitled to admit liability, for the costs covered under this Policy on behalf of you or any person claiming indemnity under the Policy. Such admissions may be made before or after legal proceedings start."

So it's clear that Advantage had discretion to accept liability.

I understand Miss S is concerned that this was done without fully investigating all the evidence, such as the CCTV footage. And given that Advantage specifically asked her about CCTV I can understand her feeling here.

Advantage have accepted they didn't try to obtain the CCTV, but they don't believe that this would've made a difference to their liability decision. They quoted the highway code and explained that as Miss S was reversing back onto a main road, she had a duty of care to ensure it was safe to proceed, the direction of the third party made no difference to this as her duty of care is both before and when manoeuvring.

I recognise Advantage should have managed Miss S' expectations regarding the CCTV footage. But even if it had been obtained, I can't say with any certainty that it had captured the accident.

Insurers don't accept liability lightly and in this case they're confident the CCTV wouldn't have changed their decision on liability. They have experience of how courts view such matters and the likelihood of success in pursuing a legal case, so I'm persuaded they would've taken this into account. And as Miss S was reversing into a main road, I don't think Advantage were unreasonable to conclude that she had a higher duty of care.

In response to the investigator's opinion, Miss S has said that without the CCTV, Advantage wouldn't have known if she was stationary at the time of the collision. However, in her initial report she submitted to Advantage detailing the accident she said *"A car came from the right in figure one, so I briefly stopped before checking the road again in both directions and then continued to reverse. While I was continuing to reverse the [third party], driver drove into the back of me"*. This suggests to me she wasn't stationary at the time of the collision.

During the claims process there were a lack of updates to Miss S. Advantage have explained they only contact customers when they have an update about the claim. However, they didn't update Miss S when the liability decision had been made, nor did they respond to her communication on multiple occasions.

Advantage have accepted their service fell short of expectations, they apologised and sent a cheque for £75 in recognition of this. But I don't think this fairly compensates Miss S for the distress and inconvenience caused.

Overall, I'm satisfied Advantage have determined liability in line with their terms and conditions and based on what I've seen I don't find their actions unreasonable or unfair. However, they didn't manage expectations in relation to the CCTV and didn't keep Miss S

informed along the claims journey as they should have. Given the overall impact of this I think Advantage should pay Miss S a further £75 bringing the total compensation to £150 for the distress and inconvenience it caused.

My final decision

For the reasons explained, my final decision is that Advantage Insurance Company Limited should pay Miss S £150 for the distress and inconvenience it caused. If Miss S has already deposited the original cheque for £75, Advantage need only pay the remainder. However, if she hasn't, Advantage should cancel the original cheque and arrange payment of the full amount.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 15 March 2024.

Karin Hutchinson
Ombudsman