

The complaint

Mr F complains about how Advantage Insurance Company Limited (“Advantage”) handled a claim under his motor insurance policy. Another person has been involved with parts of the claim, but for ease I’ll refer to him throughout.

What happened

Mr F had a motor insurance policy with Advantage covering his car.

In early April 2023 the car was stolen from outside his home. It was recovered a short while later and recovered by the police to a storage compound. It wasn’t showing much (or any) exterior damage, but a tracking device had been removed by the thieves which involved damaging the interior. Mr F called Advantage and made a claim.

When Mr F went to the police’s storage compound he found his car had already been recovered by Advantage’s assessment company, which I’ll refer to as C. He went to C’s compound and saw his car was being moved around using a forklift. He was told by C his car had been written off. This was an error. Advantage hasn’t been able to find out why he was told this.

Advantage carried out some investigation of the theft of the car which took about two months.

Mr F complained. Advantage initially said the damage to the car was “minimal” and it was from the theft.

Following Mr F’s complaint, Advantage re-assessed the damage and agreed to repair the car. It said it would pay Mr F £200 compensation.

He remained unhappy and brought his complaint to this service. Our investigator looked into Mr F’s complaint and thought it would be upheld. He said he thought Advantage had acted unfairly and the level of compensation should be increased to £500 given the delays in dealing with it.

Advantage agreed with the view. But Mr F didn’t. He asks for compensation of £1,000. He wants his car repaired by a manufacturer approved repairer with a guarantee and returned to him on a specific date, MOT’d and serviced. He has mentioned that he’s still insuring the car and has had to buy another car.

Because Mr F didn’t agree with the view, this complaint has been passed to me to make a final decision.

I issued two provisional decisions in December 2023 and January 2024 to allow the parties to consider the matter further:

First provisional decision:

Having reviewed the file of evidence I’ve been provided, I can see the service Mr F has had

during his claim has been very poor and the impact on him has been significant over an extended period.

I'm proposing to uphold his complaint and I'm issuing this on a provisional basis as I intend to go further than our investigator in considering other aspects of Mr F's inconvenience. From the file of evidence I have, I can see that it was only Mr F chasing Advantage during his claim to ask for progress. I can't see Advantage pro-actively contacting him at all.

I've listened to the calls made by Mr F to Advantage and throughout he remains helpful and responsive. But the information he's given by it is often incorrect and at no point can I hear Advantage realise something had gone wrong with its processes despite Mr F telling it about what he'd seen happen to his car, which he describes as his pride and joy.

I've produced a timeline of the key events as I see them:

5/4 – Car stolen. Mr F reports it to Advantage.

6/4 – Car found by the police – Mr F reports it. The Advantage knew it was on 'police hold' pending forensic work. The car is described by the police storage compound as "no visible damage". Advantage tell Mr F the car won't be collected until it's off-hold but C will chase up the police.

At some point C collects the car and inspects it.

11/4 – C send Mr F a letter saying the car was going to be written-off.

16/4 – C reports the car is repairable to Advantage.

20/4 – Mr F attends C to drop off his V5 and keys and asks to see the car. It's dragged by a forklift so he can see it. C tells him this is what happens with cars that are written off. Mr F tells Advantage what he's witnessed when he calls it with an update about the keys being dropped off at C.

24/4 – Mr F asks for an update – he's told the theft is being investigated. He's told the car had minimal damage.

27/4 – Mr F makes a complaint.

10/5 – Advantage arrange an independent inspection. Repairs estimated at about £8,000.

6/6 – Specialist report about the theft received & theft claim validated by Advantage. Repairs should start. Mr F couldn't use Advantage's system to book a repairer as he didn't know what the damage was. He tells Advantage this.

29/6 – Mr F returns from holiday and calls Advantage to tell it he can't use their system because he doesn't know what the damage is.

10/8 – Repairs not begun. £200 compensation offered.

Repairs

Advantage are responsible for the actions of C as C was acting as Advantage's agent during the claim. From the evidence I have, the damage to the car was mainly done by C. So it's logical that Advantage need to pay for the repairs to Mr F's car.

Given Advantage's service so far, I think it's fair that Mr F is now able to select how the repairs happen. Mr F has said he wants the repairs to be carried out by a manufacturer's approved garage.

I can see in the file Advantage say that repairs might be possible by a manufacturer approved repairer, but this might be elsewhere in its network of garages across the UK. So I think the fair solution is that Advantage discuss this urgently with Mr F and see if this can be arranged.

If it can't be resolved to Mr F's satisfaction then I think it's fair that the repairs are carried out at the repairer of his choice and Admiral pay for them.

I ask the parties to liaise and make the appropriate arrangements.

Excess

Mr F has an excess of £695 under the terms of his policy. There's no doubt that some damage was caused by the thieves who stripped out the tracking device from the interior. I can't see the cost of repairing this damage on its own. Mr F has told this service his original intention was to recover the car himself from the police's compound, and carry out the repairs with the assistance of family.

I can't hear him saying this to Advantage, but I think it's also fair to say that the car was on police hold and he'd no reason to think the car was going to be removed to C without him knowing. So I have to balance whether it's fair to ask Mr F to pay his excess, when he may have repaired it himself at a lower cost, against Advantage's right under the policy terms to ask for it to offset its payments (such as storage costs).

What I've decided is that it's not fair that Advantage require Mr F to pay his excess. I've listened to the calls to this service and I think Mr F explains what he was planning to do.

Most of the damage caused to his car was reasonably caused by C, so I propose Advantage need to settle the full amount of repairs, without deduction of Mr F's excess.

Claim delays

I can see from the file that Advantage took two months to validate his theft claim. About three weeks after he reported it, I can see a note in Advantage's file saying that his model of car was susceptible to a particular method of theft. Advantage then organised a specialist report about this, but this took a further month. Mr F then chased Advantage and his claim was only validated when he contacted it.

Even though the claim reasonably needed validating I don't think it's fair that Advantage took two months to do this.

Then he couldn't book the repairs online because he didn't know what the damage was. He made repeated calls to Advantage about this but wasn't guided forward. He seems to have been told "that's the process" without anyone in Advantage trying to understand what the situation was.

The position in the claim only moved forward when a senior complaints person became involved in August. But even then, repairs still didn't take place.

At the time of writing, repairs still don't seem to have been carried out which is over eight months later.

During this time, Mr F was able to use his wife's car and she was able to borrow another one from their extended family for a time. They then used their savings to buy another car for her to drive, and he's continued to pay for insurance on his car and the new one during that time.

From what I can see, the policy doesn't include the provision of a courtesy car. But given that C reasonably damaged Mr F's car, and caused delays during the claim that continue, I think the fair solution here is to require Advantage to pay Mr F for his loss of use of the car.

The usual rate for this is £10 per day. And I think it's fair I require Advantage to pay this for the period from when he bought the replacement car, to the date Mr F accepts my final decision.

I've said above that I propose to require Advantage to repair, or pay for repairs to, Mr F's car. So I think it's fair I say I'd also expect it to continue this payment until the entire claim is settled.

This amount is in respect of the additional insurance, costs and loss of interest Mr F has on his savings. If Mr F has other reasonable costs he'd like me to consider then I'd ask him to provide evidence of these.

Service

I've said above that I can't see Advantage contacted Mr F during the claim. All the calls I've listened to involve him calling it to ask for an update. Most of the calls involve the claims handler telling him it's received some information, then putting him on hold while deciding what direction the claim needed to go.

It seems to me that it's only Mr F's chasing the claim that means it would move forward. I can hear from the calls that the impact on Mr F became more significant as time went on.

He's talked about cancelling holidays because he couldn't tow a caravan. And he's worried about the long-term damage that may have been caused by C due to its handling of his car.

Taking everything into account, his distress and inconvenience has taken place over an extended period and it's been significant. I think Advantage need to pay Mr F £500 compensation for this.

Responses to my first provisional decision

Both Advantage and Mr F responded to my first provisional decision. They both disagreed with my proposed outcome.

Advantage said it had already agreed to pay £500 compensation. But it didn't agree with my proposal of paying £10 per day for loss of use of the car. It said this because it says Mr F didn't have to pay £10,000 for a car. He could have spent less.

It didn't agree with waiving Mr F's excess of £695 because it didn't think the damage caused by the thieves to the interior would have been less than the excess.

It also said it realised Mr F had been paying for policies he couldn't use, at a cost of about £351.57.

Advantage said it thought a fair outcome would be for it to pay:

- £500 compensation

- £351.57 for the policies he'd bought
- £86.79 for loss of interest of the £2,500 it thought would have been a more reasonable cost of a replacement car.

Mr F told me that his car is now being repaired by Advantage, but he doesn't have a date for it to be returned to him.

The replacement car he bought has since broken down and repair costs are expected to be high.

He asks that Advantage pay him the full market value of his car, plus the additional cost of insurance. He also wants £10,000 for the cost of the replacement car, plus £5,000 for repairs to it. Other costs he's incurred include £250 for caravan storage costs, loss of interest on savings, additional costs caused by relying on friends and family to transport him and his family and loss of value of the car.

Second provisional decision

It's important I say that this service's approach to Loss of Use has changed since I wrote my initial provisional decision. I'm issuing this as a new provisional decision adopting this new approach. I'd ask both parties to consider my approach and respond.

I will also deal with both parties' responses to my first provisional decision to answer their points and clarify what I'm able to award compensation for.

Advantage offered a proposed solution that rejected most of my provisional decision. I've considered its thoughts and I don't find its approach to be fair and reasonable and I'll explain why.

Mr F's car was stolen and recovered and he made a claim under his contract of insurance with it.

But the delays and the further damage were entirely the fault of Advantage. So I don't think its response in refusing a loss of use payment are fair.

It's also said it doesn't think Mr F mitigated his losses by buying a replacement car for £10,000 rather than the £2,500 it thinks it should have cost.

But I'd emphasise again that Mr F bought this car because his was put out of use by Advantage's actions – so it's not fair that Advantage takes this approach and I find it inexplicable that Advantage think Mr F should have bought a cheaper car.

I've also thought about Mr F's responses carefully. Firstly, it's important I say that it was Mr F's choice to buy the replacement car and that means this isn't a cost I can fairly ask Advantage to pay. I do understand Mr F will say that it's Advantage's fault he was put in this position, but I'd emphasise it's still his choice to buy the car.

I was sorry to hear that the car he bought then had further problems, but again that's a choice he made and I can't hold Advantage responsible for the repairs. He may find he has rights about these repairs under a relevant piece of legislation (such as the Consumer Rights Act 2015) from the supplying dealer and possibly an appropriate ombudsman.

Turning to his own car's repairs, I understand that this process is still ongoing. In my first provisional decision I said Advantage needed to repair or pay for repairs to Mr F's car, and I

still think this approach is fair.

Advantage has said it doesn't think my provisional decision for it to waive his excess is fair. It says that it doubts Mr F could have done the repair to the interior for a much smaller amount. It's clear to me that damage was caused by the thieves to the interior, but I don't think Advantage can fairly say what it thinks Mr F was able to do or not do. Given the passage of time with this case and Mr F's evidence that he would do the work with family and friends, I don't think Advantage's argument is fair. So I think the repairs should be done in full by it, without deduction of his excess.

If the repairs aren't completed to Mr F's satisfaction then he's free to bring a further complaint to Advantage about those, and then to this service in due course if he remains unhappy. I can't say it's fair to ask Advantage to pay for the full market value of his car at this stage.

I've also looked at the other costs Mr F has told this service about. I can see from his evidence that he has been greatly affected by Advantage's poor service meaning he still doesn't have a car after an extended period.

I've mentioned above that this services guidelines on this matter have recently been changed.

I've considered the type of Mr F's car and the value of it. I've taken into account the use it had (for commuting, and importantly for Mr F's family's leisure use). Taking everything into account, I think Advantage need to pay Mr F £20 per day for his loss of use of his car, from the date he bought the replacement (which Mr F has said is 20 July 2023) to the date he accepts my final decision.

It's clear to me that Mr F's inconvenience continues and it's as a result of Advantage's actions. I remain concerned that his car is being repaired by it and a courtesy or hire car hasn't been supplied to him by Advantage in an effort to mitigate its own losses.

I think the total compensation is sufficient to include loss of interest on his savings, the additional insurance costs he's paid, and the caravan storage costs.

Responses to my second provisional decision

Advantage didn't agree with my provisional decision. It said Mr F wasn't without a car, as he'd bought a replacement, so it didn't think it should pay for loss of use. It also disagreed with the amount per day. It asked for an extension, but didn't reply further.

Mr F agreed with my provisional decision. But then he was asked to pay his excess to the repairer, and found that he had to pay for its MOT, which he'd been told by Advantage it would pay. He says his car has lost a further £2,000 in value.

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 can see from the file that at the time of writing Mr F is still struggling to get his car back. I'm issuing this final decision to hopefully bring this matter to a close so that Advantage will make sure his car is released back to him as soon as possible.

I don't find Advantage's response to either of my provisional decisions useful. I commented

to Advantage that at no point has it understood that it caused the damage to Mr F's car, so it should be sorting out the problem. It didn't reply. It also hasn't acknowledged that Mr F's family needed two cars.

Mr F has said his car has depreciated during its time in the repairer, but I'm afraid that's not something I can take into account here, as cars do depreciate and it would have done the same whether it was being used, or not.

It's important I remind Mr F that he's free to bring a further complaint to Advantage about the claims process and repairs to his car if he's unhappy about those. He can bring that complaint to this service in due course if he remains unhappy.

I have amended this final decision slightly because I'm aware Mr F may be able to get his car back imminently. So I have changed the wording in my decision to end his loss of use when his car is returned. I regard this as a minor change.

My final decision

It's my final decision that I uphold this complaint. I direct Advantage Insurance Company Limited to:

- Repair or pay for repairs to Mr F's car, without deduction of his excess.
- Pay Mr F £20 per day in respect of his loss of use of his car from the date he bought the replacement car to the date Mr F's car is returned to him.
- Pay Mr F £500 compensation for his distress and inconvenience.

Advantage Insurance Company Limited must pay the amount within 28 days of the date on which we tell it Mr F accepts my final decision. If it pays later than this, it must also pay interest on the amount from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 12 March 2024.

Richard Sowden
Ombudsman