

The complaint

Mr S complains Admiral Insurance (Gibraltar) Limited settled his motor insurance claim unfairly.

What happened

In July 2023 Mr S' vehicle was damaged in a collision. He claimed under his Admiral motor insurance policy. Admiral deemed the vehicle a write off (or total loss). It offered Mr S a settlement of £1,481. This was based on a market value of £4,076 with deductions of £978 for him to retain the vehicle's salvage and a policy excess. In addition Admiral said it was paying a proportionate settlement of the claim - at around 76%. It said as Mr S had failed to declare a motoring offence he paid a lower premium than he should have.

Mr S wasn't satisfied with the offer. Admiral issued a complaint response. It said its market valuation of £4,076 was based on trade guides. It didn't accept it was too low or unfair. Admiral went on to issue a further complaint response – addressing other points raised by Mr S. It said the salvage deduction is based on pre-agreed rates. It didn't change its position on the proportionate settlement. It said it had followed the correct procedure by recording the vehicle as a write off. Finally Admiral said a potential system error was responsible for Mr S' dissatisfaction with a live chat experience. It offered him £25 compensation in recognition.

Mr S wasn't satisfied so came to the Financial Ombudsman Service. He said he wasn't happy with the market value, the salvage reduction, the proportionate settlement, the vehicle having been registered as a write off before settlement was agreed and him being cut off during the live chat. To resolve his complaint he asked that Admiral compensate him for distress and financial loss.

Our Investigator found Admiral's market value, salvage retention deduction and proportionate settlement of the claim to be fair and reasonable. She didn't agree it had done anything wrong by reporting the vehicle as a write off before a settlement had been agreed. So she didn't recommend Admiral do anything differently. As Mr S didn't accept that outcome the complaint was passed to me to decide.

I recently explained to Mr S and Admiral that I intended to come to the same outcome as the Investigator on two of the three main complaint points – the proportionate settlement and the salvage deduction.

However, I said I intended to find Admiral's market value of £4,076 to be unfair. I said this service feels it fair for insurers to base the market value on the highest of the trade guide valuation – unless there is evidence to support a higher or lower valuation. I explained Admiral's market value was the average of two guides. I said it hadn't provided anything to support a fair valuation being lower than the highest of the two - £4,350. For that reason I said I intended to require Admiral to settle the claim based on that valuation – with simple interest applicable in the usual way. Finally I provided an opportunity for Mr S and Admiral to provide any comments or further evidence in response. Neither provided anything of substance for me to consider.

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.

As this is an informal service I'm not going to respond here to every point or piece of evidence Mr S and Admiral have provided. Instead I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted.

market value

I've first considered the market value Admiral based its claim settlement offer on. After that I've looked at Mr S' other concerns - including the proportionate settlement and proposed salvage deduction.

Mr S' policy covers his vehicle against loss or damage caused by an accident. The policy says the most Admiral will pay if it chooses to settle the claim by paying a cash sum is its market value. Market value is defined by the policy as the cost of replacing the vehicle with one of a similar make, model, year, mileage and condition based on market prices immediately before the loss happened.

So I've considered if Admiral's offer to settle Mr S' claim is fair and in line with these terms. When looking into these types of complaints we check trade guides, adverts and other relevant evidence. We consider whether the insurer has made a reasonable offer in line with the evidence. We generally find the guides persuasive as they're based on nationwide research of likely selling prices, so they can be more reliable than individual adverts. But as I've said we do consider other evidence.

As I set out above Admiral based its £4,076 market value on the average of two trade guides - Guide A: £3,802 and Guide B: £4,350. I've also considered a third valuation provided to this service by an additional trade guide – Guide C – at £4,270. A fourth guide was unable to provide a valuation. All three valuations were based on the on the same make and model of Mr S' car at the time of the loss – using appropriate age and a mileage of around 235,000.

I don't consider Admiral's market value to be close enough to the highest guide. It still hasn't provided anything to support a market value lower than the highest value as fair. So considering the guides available a fair market value, for me, is £4,350.

I've considered the evidence Mr S has referred to in support of a higher market value than £4,350. This includes a couple of valuations. However, these don't persuade me £4,350 would be an unfair market value. For example one his valuations doesn't show the make, model, age or mileage it's based on. And neither, as far as I'm aware, is from the time of the loss. So I haven't been able to place much weight on the valuations Mr S has referred to.

Mr S referred to service history and the impact of the pandemic. I'm not persuaded a full-service history would result in a higher market value than £4,350 – instead its more likely an absence would reduce the value. I'm satisfied the guides provide a reasonable valuation for the time of loss – July 2023 - and take into account any pandemic impact on prices.

So a fair market value of the vehicle at the time of the loss is £4,350. Admiral will need to recalculate Mr S's settlement using that figure. It should add simple interest, at 8%, to any amount its required to pay him after the recalculation. That is to make up for him unfairly being without the funds. The interest should be applied from the date it paid the original settlement to the date it pays the additional amount.

proportionate settlement

As Mr S is a consumer, the relevant legislation for me to consider is the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). An insurer can take certain action, like settling a claim proportionally, if a 'qualifying misrepresentation' has been made in line with (CIDRA).

For Admiral to take any action there would need to be a 'qualifying misrepresentation'. For that a few things are required. Firstly there must have been a failure to take reasonable care not to make the misrepresentation.

CIDRA sets out several things to be considered when deciding if a consumer took reasonable care not to make a misrepresentation. One is how specific and clear the questions asked were. Another is any relevant explanatory material.

Mr S was awarded points for a motoring offence in March 2022. Admiral says he failed to declare these for his March 2022 and March 2023 renewals. As the proportionate settlement was made for a claim in the March 2023 to March 2024 policy year I've focused on that renewal.

I've been provided with a copy of the proposal for Mr S' renewal. At the top of the document it requests he check the information included carefully. It asks that he, if any is incorrect, contacts Admiral immediately.

In a 'motoring offences' section Mr S is asked - 'In the last 5 years, have you (or any named driver) had any motoring offences added to your driving licence records?'. Besides Mr S' name the section for 'motoring offences' is left blank. The March 2022 offence isn't included. So I'm satisfied that on the face of it there was a misrepresentation.

Mr S doesn't dispute knowing about the points at the time of renewal. He does say he didn't receive the March 2023 renewal documents, however. He feels they may have gone to 'junk' inbox in his email system. I accept that's possible. However, he was aware of his need for insurance and that his Admiral cover would renew. He does say he didn't opt for automatic renewal. I'm satisfied he was aware of the legal requirement for motor insurance. And I haven't seen that he arranged alternative cover. So I think it's likely he was aware of his Admiral cover and was happy for it to renew.

So in the circumstances a reasonable consumer would, in the absence of policy documentation, make enquiries. I'm satisfied it was explained the information in the policy documentation should be checked. In addition the information about motoring offences is clear and easily understood by a reasonable consumer. So by failing to check the policy renewal information and declare the motoring offence it's fair to say Mr S failed to take reasonable care not to make a misrepresentation.

I've considered what Mr S has said about providing his driving licence details when setting up a multi-cover policy some time before the March 2023 renewal. He's referred to Admiral using these to check databases for offences. Admiral accepts a call happened. Unfortunately a recording isn't available. Admiral says there's no record, as would be the usual practice, of his licence details being provided or added to the cover at that point. So, on balance, I think the licence details probably weren't provided.

In any event Mr S hasn't said he provided Admiral with details of the motoring offence itself - just the licence number before he was awarded the points. He also refers to the call taking place in November 2022 - so before he was awarded the points. In the circumstances I'd

still expect a reasonable consumer to check the March 2023 renewal documentation, note the absence of the points and inform Admiral.

Admiral also needs to show that without the misrepresentation it wouldn't have offered cover or would have only done so on different terms. Having considered its evidence I'm satisfied Mr S would have been charged a higher premium if the motoring offence had been declared. That means there was a qualifying misrepresentation.

In these circumstances CIDRA allows an insurer to reduce the claim proportionally. Admiral's settled based on Mr S having paid only 76% of the true premium. I've no reason to find that calculation was made incorrectly or unfairly. So I'm satisfied its proportionate settlement of the claim is fair and reasonable.

salvage deduction

Admiral proposed a deduction, from the settlement, of £978 if Mr S wished to retain the vehicle's salvage. He feels that was unreasonable, not reflecting the true value of the salvage.

I generally feel it's fair for an insurer to base a deduction on what it would have received had it retained and sold on the salvage. Admiral's provided evidence to show what it would receive under the salvage scheme it operates with its agents. Having considered that I'm satisfied its proposed deduction was fair and reasonable.

Mr S has provided offers for the salvage of £150 and £250. He's also pointed to the vehicle selling for £300 at an auction. However, my consideration is based on what Admiral would have received for the salvage had it retained it and sold it to its agent. That can be a different amount to what the agent might then receive for it when selling it on – or that Mr S might be offered for it. Having seen Admiral's evidence I'm satisfied it proposed a reasonable salvage deduction.

So I'm satisfied Admiral's proportionate settlement and salvage deduction were fair. However, it based the settlement on an unfair market value. So it will need to recalculate the settlement as set out above.

Mr S is unhappy Admiral registered the vehicle as total loss before agreeing a settlement with him. Admiral says it has an obligation to categorise and record on relevant databases damage of a certain level. It says this is to protect the public and provide transparency of vehicle history. In doing this Admiral feels it was acting in line with Mr S' policy terms – and that it had explained this in claim letters sent to him. Having seen photos of the damage I'm satisfied it acted fairly and reasonably on this issue.

Finally Mr S believes Admiral deliberately disconnected a 'live chat' conversation he was involved in. Admiral feels a system error, rather than anything deliberate, may have been responsible. Without anything to support there being a deliberate disconnection a system error seems more likely. And I'm satisfied the £25 compensation already offered is enough to reflect any resulting distress or inconvenience.

My final decision

For the reasons given above, Admiral Insurance (Gibraltar) Limited must recalculate Mr S' claim settlement using a market value of £4,350. It should add simple interest, at 8%, to the additional amount due to him. Interest should be applied from the date of the original settlement to the date it pays him the additional amount*.

If Admiral considers it's required by HM Revenue & Customs to deduct income tax from the interest, it should tell **Mr S how much it's taken off. It should also give him a tax deduction certificate if **he** asks for one, so **he** can reclaim the tax from HM Revenue & Customs if appropriate.*

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 9 May 2024.

Daniel Martin
Ombudsman