

## **The complaint**

Miss H has complained that Advantage Insurance Company Limited unreasonably and unfairly cancelled her telematic motor insurance policy.

## **What happened**

Miss H brought her telematics policy from Advantage's broker online to start on 1 April 2023. Because it was a telematics policy Miss H received a considerable discount on the premium price. Her premium was £391.83.

Miss H said from the beginning of May 2023 she was receiving messages from Advantage about difficulties in getting her driving data from the telematics device to which she said she responded and was repeatedly told it was all right and now working again. She also said she had a long telephone call with Advantage on 17 May 2023 concerning this. However, the data collection difficulty messages continued to arrive from Advantage again in both late June and late August 2023. In September 2023, she both called Advantage about these messages plus raised a complaint. Miss H said Advantage didn't respond to this complaint.

Miss H said the data collection difficulty messages continued to be received in October and November 2023. So, she raised a further complaint in November 2023. In her exchange of emails with Advantage over the nature of the complaint she told Advantage she was currently on holiday in her email of 10 November 2023 so not driving her car, hence there would be no driving data available for that month. She also explained that there was nowhere in the app for her to explain she was on holiday either.

Advantage then issued its final response letter of 14 November 2023, which didn't uphold her complaint. It referred to its email to her of 23 October where it said it wasn't receiving any driving data. It also referred to its email of 6 November saying the same. And Advantage said consequently it was cancelling her policy from 20 November 2023. The letter didn't refer to the email exchanges between the author of the final response letter and Miss H of 10 November which clearly detailed that Miss H was on holiday. It also said that in September 2023 following her contact (which Miss H said was a complaint) she was told to reset her app.

When Miss H was back from her trip abroad, she then bought a new policy with another provider with no telematics device for a premium of £1,024.72. So, Miss H then brought her complaint to us. The investigator ultimately upheld it. He didn't think Advantage acted fairly in cancelling Miss H's policy as Miss H had raised issues which Advantage didn't help her out with when it should have. He thought Advantage should remove the notice of cancellation and pay Miss H £200 compensation. He also thought Advantage should pay a contribution toward Miss H's new policy as had Advantage not cancelled her policy in November 2023, Miss H would have been covered with Advantage's policy until 31 March 2024. He decided Miss H had paid about £341.57 to be covered between December 2023 and March 2024 with her new provider. Under her policy with Advantage, she would have paid about £127.85 to be covered for the same time-period. Therefore, he thought Advantage should also pay Miss H the difference of £213.72 with interest.

Advantage disagreed. It said there were two issues. The first being the telematics device had patchy coverage causing a lack of driving data to be shared. The second being that Miss H went on holiday so didn't use her car and no data was available. It said it cancelled the policy because Miss H failed to advise it that she was going on holiday which created an absence of data being received. It said there should be no compensation for this, as the telematics device wasn't failing. But on the other hand, it did agree that given the repeated issues they should have explored these matters, so it was willing to entertain compensation but not at this level.

Miss H also didn't agree. She said that the investigator's view didn't put her back in the position she would have been in, had Advantage not cancelled her policy. She didn't understand how the figure of £213.72 was arrived at. She thought Advantage should pay any extra which she incurred for her new insurance which would also include the premium hike due to the cancellation itself. She also didn't think it was correct that the investigator said Advantage had stopped receiving her driving data since September 2023. And she wanted to see that driving data. Given all the messages she had from Advantage from May 2023 onwards she didn't believe her telematics box was ever working properly and Advantage failed to deal with this. She also wasn't aware she ever contacted the wrong department about her issues with the telematic box which Advantage had also accused her of.

So, on this basis the matter has been passed to me to decide.

I issued a provisional decision on 13 June 2024, and I said the following:

'Having done so I'm intending to uphold this complaint for different reasons than those of the investigator. I'll now explain.

First, I want to thank Miss H for her meticulous record keeping and detailed letters explaining the matter. It very much helped my understanding of the chronology of the matter and how things developed.

#### *Data collection difficulty messages*

I can see from Miss H's testimony that she has had issues with her telematics device since the beginning of May 2023 as she received a substantial number of messages concerning the data collection difficulties. And I consider it's more than probable that she duly responded to all these messages also since they threaten policy cancellation, plus it's clear evidentially, that she initiated calls with Advantage concerning them too.

Advantage said to us on 5 April 2024 that *'looking at the file ... defended, it doesn't seem these [calls from Miss H] were ever mentioned or looked at previously.'* It then agreed on 9 April 2024 that the calls supported Miss H's narrative – as in that she called into Advantage on multiple occasions following its messages to her concerning the data collection difficulties. It also admitted on the second occasion (no date given) that Miss H contacted it, that *'we might have regarded the notes previous and suggested a replacement device'*. So that tells me that in considering Miss H's case plus her two complaints one in September 2023 (which it never responded to) and the second in early November that it didn't take any account of the number of messages it had sent to Miss H concerning data collection difficulties with her telematics device in making its decisions. It also didn't notice that its records would have shown data collection difficulties since early May 2023, a mere month after Miss H's policy started. Plus, it most definitely didn't take account of the fact that Miss H

also answered these messages too. I don't consider this is reasonable or fair to Miss H nor is it in keeping with Advantage's duties under the Consumer Duty of which it now must take note.

Advantage was clearly having difficulty in understanding how the telematics device resolved itself from time to time. But it said in its above correspondence also, it should have at least replaced the device given its messages to Miss H. However, bearing in mind the number of messages Miss H received concerning the data collection difficulties right up to October 2024 which Advantage now acknowledges Miss H responded to – it doesn't appear to me that whatever resolution was happening with the telematics device that it was resolving the situation in a sustainable fashion. Sadly, the data Advantage has given us isn't intelligible in telling me what precise trips Miss H might have made in her car and when precisely she made those journeys. So, without that information I can't marry up the dates Miss H told us she received messages from Advantage about data collection difficulties with the alleged journeys made by Miss H. I also don't consider this helps Advantage's argument in any way given the extent of its data collection difficulties.

#### *Miss H's holiday*

Advantage then concludes that it was unaware of Miss H's holiday, and it says that is why the policy cancelled because of the lack of data during the time Miss H was on holiday. However, Miss H clearly told Advantage she was on holiday on 10 November 2023 as she said the following in an email exchange with the person in Advantage who wrote the final response letter after receiving this from Miss H.

*'Hi [name of person who wrote the final response letter dated 14 November 2023],*

*Yes that is correct I believe my You drive is not working. On the first notification I spoke to someone from Hastings who said it wasn't. Then I got the messages and emails again so I spoke to someone again same thing they said no problem it is working.*

*I submitted a complaint in September and got no response. Hence, I have submitted another complaint again.*

*I seem to be getting these emails nearly every month to say it isn't working and you will cancel my insurance which I find very stressful.*

*I am currently on holiday so not driving my car so hence there will be no data for this month but there is no where to state you are on holiday and won't be using your car on the app which is very poor....'*

However, the final response letter never referred to this information. And neither as we now know, did it show the writer really understand that Miss H had responded to all the data collection difficulties messages and was constantly told by Advantage, it was then working. So, I don't consider the reason given for the cancellation was fair on the basis of the information Miss H gave Advantage on 10 November 2023, as all of this was relevant as to whether there was any cause to cancel the policy at all.

Advantage said it needed advanced warning of holidays in its letter to us of 24 April 2024. But the policy terms don't say that, as we'll see below. And further Miss H has highlighted that there is nothing in the app for her to explain she would be going on holiday which I consider is significant.

So, I can see in the policy terms on page 39 of the Policy booklet it details the terms and condition of driving data. It says the following:

*It is a condition of your Policy to share your Driving Data with us through the HastingsDirect App and YouDrive Tab.*

*We collect your Driving Data through the Hastings Direct App and the YouDrive Tab (which is a small wireless device we'll send you in the post).*

...

*If you share insufficient Driving Data with us during your Period of Cover, it may be cancelled, so it's important to ensure your trips are recorded accurately (see Cancellations section for further detail).*

...

*Rest assured we have a number of processes to make sure things are working smoothly, so we'll correct any Driving Data that doesn't look right. As a result of this, not all your trips may show in the Hastings Direct App. Your Driving Data will be shared with us from the date your policy starts. If your Driving Score falls to 30 or below, we'll get in touch and give you plenty of time to take the appropriate action.*

*We'll tell you the date your Policy will be cancelled (Cancellation Date). This will be at least 20 days from when we get in touch, so you'll have time to find insurance elsewhere. You can also cancel the Policy yourself before we do, which means you won't have to declare the cancellation to any new insurers. We won't charge you any cancellation fees if we cancel or you cancel.*

...

*App and Tab faults or replacements*

*If we find a fault with your Tab, we'll arrange for it to be replaced free of charge. If you lose or damage the Tab, you'll need to pay a fee to replace it. You can find details of all our fees at [website address]*

On page 47 under the more generalised section entitled *Our rights to cancel your Policy* it says the following:

*'We may give you seven days' notice of cancellation*

- You share an insufficient amount of Driving Data with us during your Policy, we do not receive any Driving Data for more than 28 days, or a significant proportion of your Driving Data is captured without you using the App.'*

The policy singularly fails to explain how the policyholder is to record or explain any situation where there might be a time-period when no data can be collected given the policyholder isn't driving the car for a time. For something as routine as a holiday like in Miss H's case or even through serious illness or some other type of incapacity like a broken limb which would take at least six weeks to heal. I don't consider that is reasonable or fair. So, I consider the cancellation of Miss H's policy was unwarranted at this time.

#### *Cancellation recording issues*

Further in the general section regarding cancellation, it also fails to say whether the cancellation in these circumstances (as against driving score cases) will be recorded

on any internal or external databases. I don't consider this is clear either as the telematic policy section refers the reader to the general cancellation conditions.

However elsewhere on 1 March 2024, Advantage said this cancellation of the policy wasn't recorded on any external database whilst acknowledging that other providers might well ask the questions about whether any insurance policy had been cancelled. Further on 9 April 2024 Advantage said it would be happy to 'remove' the cancellation, but it didn't want to pay the extent of the compensation suggestion by the investigator. That also doesn't tell me categorically that this cancellation isn't recorded on an external database additionally.

So given Advantage are so adamant Miss H's policy was cancelled due to not knowing about her holiday in advance (without appearing to provide any ability for Miss H to record it on the app either) it's not at all clear to me that the cancellation is not recorded in any external database regardless. In any event I consider Miss H was perfectly right to disclose this policy was cancelled to her new provider which in turn would have increased her premium amount too. Advantage itself requires this level of disclosure for this policy in any event too as it says the following:

*'Your legal obligations*

*Remember, it's an offence under the Road Traffic Act to make a false statement or to withhold information in order to get motor insurance.'*

And I've yet to see a policy application that doesn't ask the applicant to disclose if 'any' policy' (not just motor insurance) has been cancelled.

Therefore, I consider this cancellation also adversely affected the premium Miss H had to pay with her new insurers however it has been recorded.

### *Conclusion*

So in conclusion bearing in mind what Miss H told the author of the final response letter on 10 November about her holiday; coupled with the fact that Advantage has further acknowledged it didn't really know when making the decision to cancel her policy, about all the messages it sent her regarding its data collection difficulties; and Miss H responding to them; and being consistently told it was all right and working then; that it was at all fair and reasonable in the particular circumstances here to cancel Miss H's policy at all.

It seems to me that for whatever reason the telematics device had some fault which given it's the property of Advantage, only Advantage can fix it or replace it and only it can make that decision too. So instead of noting the issue with the telematic device and all its own messages to Miss H about it plus her replies, I consider Advantage then prematurely decided to cancel her policy without bottoming out all these issues. Consequently, I consider all records of this cancellation should now be removed from all internal and external databases.

### *Consequences on Miss H*

This had significant consequences for Miss H. First, she did the right thing and told her new insurer that her policy with Advantage had been cancelled. The premium she was quoted and which she accepted given it was the most reasonable she could find at the time was £1024.72 which is significantly more than she was paying Advantage as her premium for this policy was £391.83 given the telematic discount.

Miss H told us that she did another quote in April 2024 and obtained a new quote of £573 for 12 months without telematics and with no cancelled insurance declaration. Her policy with her new insurer won't expire until December 2024.

As I consider this policy was wrongly cancelled Miss H now needs to inform her new insurer of this fact. Then this new insurer will re-rate the policy without the cancellation which should provide a refund to Miss H for the amount charged for the fact her previous policy was cancelled. This tends to be a straightforward matter for any insurer to do, given the increased rating for cancellation is easily identifiable. For clarity this is the responsibility of Miss H's present insurer and not Advantage as only her present insurer will have this information. And further it's not information which Advantage can access either.

If it is the case the re-rated premium remains more expensive than this policy with Advantage, (and it's most likely given the quote Miss H obtained as there is no telematics with this subsequent policy), then I intend to ensure that Advantage refunds that difference with interest.

That therefore will eventually put Miss H back in the position she should of being in but for the premature cancelling of her policy by Advantage. Her premium with her present insurer will have been re-rated detailing no cancellation. So, if she is paying her premium by instalments her monthly payments will reduce, and her insurer will refund any extra premium already paid by Miss H. If she had paid the premium up front, her new insurer should just make the straight full refund. Then the likely difference in the end cost of each policy given the lack of telematics on the new policy will now also be refunded by Advantage.

So, all that remains is the trouble and upset this caused Miss H. The investigator was of the view that Advantage should pay Miss H the sum of £200 compensation. Given Miss H was dealing with data collection difficulty messages from May 2023 culminating in the policy being cancelled in November 2023, I consider she was put to considerable trouble and upset for a period of several months. Added to that, was the shock of her policy being cancelled too and having to find and fund a new policy.

So, in line with our approach, I don't consider the £200 suggested by the investigator is sufficient. I consider the sum of £500 compensation, bearing in mind the length of time Miss H received these data collection difficulty messages plus the unfair policy cancellation to be more appropriate, given the time, trouble, upset and inconvenience Miss H was put to, for such an extended period of time, from May 2023 to December 2023.'

Miss H accepted my provisional decision.

Advantage disagreed. It believed the information had been framed in such a way that was neither reasonable nor fair. It said, given the telematics device issues, either it was not working properly or that it was user error. It felt user error was more probable because the device seemed to fix itself. Which it thought suggested manual intervention. This is also because the data teams haven't located any errors in the device in question. Therefore, it felt that Miss H simply didn't understand how the device worked.

As to the holiday issue, it believed that as the email Miss H sent to the author of the final response letter uses the present tense, then that's a clear indication she didn't use the right channels to notify it of her holiday. It consequently felt the outcome in the provisional decision was punitive and that I should reconsider it.

## **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 again, I'm upholding this complaint for the reasons I gave in my provisional decision.

Dealing with Advantage's comments on my provisional decision, I consider it was for Advantage to assess the device at the time to ascertain if it was faulty or that the issues were caused by user error. I haven't seen any evidence from the data teams to show it wasn't faulty either. I also consider if it was then discovered to be user error, then efforts should have been made to ensure Miss H understood how to operate it correctly, given these issues happened at least monthly from May 2023 to October 2023. Further I don't believe it's incumbent on any policyholder to actually understand how the device worked, that's for the insurer to understand not the policyholder.

Obviously, the operating app would have instructions to follow which no doubt would flag up any issue if Miss H wasn't following the actual instructions. Instead, what happened given the evidence of the messages Miss H showed us that she received, is that Advantage kept getting messages from the telematic device in Miss H's car saying it wasn't receiving all the data, which then appeared to fix itself at least once a month. And so, it contacted Miss H at least once a month saying it was having data collection difficulties, to which Miss H responded and then she was told it was fixed. I remain of the view that since these data collection difficulty texts were sent so often to Miss H from May 2023 that it was for Advantage to get to the bottom of the issue of whether the device was working correctly, or that it was user error, before cancelling her policy.

As for the holiday issue, Miss H clearly identified in her email exchanges with the author of the final response letter (and before that final response letter was sent and issued), that first she was on holiday and secondly, she couldn't see on the app how or what channel she was supposed to contact Advantage on to notify it of her holiday. Advantage hasn't shared with me what those appropriate channels for notifying of holiday or illness were supposed to be either. It's not written in the policy document from what I can see. However more importantly the final response letter doesn't take account of this information Miss H gave beforehand. It simply ignores it and cancels the policy instead. I don't consider that's reasonable or fair. I would have expected some reasoning concerning the information Miss H had told to this author of the final response letter in the actual final response letter too. But there wasn't any.

I am sure there are instances where policyholders with telematic devices try and circumvent it in some way to try and gain an advantage. Indeed, this service has seen such cases. But that doesn't mean Miss H was one of those policyholders, as she replied to all the text messages, raised a complaint wanting the issue with the constant text messages resolved in September 2023 which wasn't responded to and then found her policy cancelled when she raised that complaint again in November 2023. I remain of the view this wasn't fair to Miss H.

## **My final decision**

So, for these reasons, it's my final decision that I now uphold this complaint. I now require Advantage Insurance Company Limited to do the following:

- Pay Miss H the sum of £500 compensation.
- Remove the notice of cancellation from all internal and external databases.
- Once it is known what Miss H's present insurer would have charged Miss H for her policy on the basis of not rating the premium amount for any cancellation, and on the likely basis Miss H's new policy remains more expensive than her policy with Advantage, it should refund the difference with interest of 8% simple from the date Miss H bought her new policy to the date it refunds her.
- If income tax is to be deducted from the interest, appropriate documentation should be provided to Miss H for HMRC purposes.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 22 July 2024.

Rona Doyle  
**Ombudsman**