

The complaint

Miss H complains that Advantage Insurance Company Limited (Advantage) cancelled her policy unfairly, and it paid a claim for an accident when no damage occurred, under her motor insurance policy.

What happened

In October 2022 Miss H was involved in an accident. She drove into the rear of another car. She says the impact was minimal and there was no damage. But Advantage paid £3,500 to settle the claim with the other driver.

In May 2023 Miss H was involved in another accident where she drove into the rear of a car. She says she then received notice that her policy was to be cancelled. She was told this was because she had a second occupation. Miss H says she's been unable to get alternative insurance as she's had to declare the cancellation. This has made insurance premiums unaffordable. Resulting in inconvenience, distress, and additional costs.

Advantage sent two final complaint responses. In the first response it says the first accident was recorded as a fault claim. It had no concerns that the claim had been exaggerated. In its later response Advantage says it wrote to Miss H on 24 August 2023 giving her seven days' notice it was cancelling her policy. It says it had been advised she had a secondary occupation. This wasn't acceptable under its underwriting criteria.

Miss H didn't think this was fair and referred the matter to our service. Our investigator upheld her complaint. She says Advantage should settle Miss H's claim as it hadn't avoided the policy back to inception, meaning the policy was in force at the time of the last accident. She says it should've given Miss H the option to cancel her policy herself. This will have meant she needn't declare a cancellation to other insurers. To put this right, she says it should amend its records and provide a letter to this effect.

For the distress and inconvenience Advantage caused Miss H our investigator says it should pay her £300. Also, that the business should reimburse Miss H with her travel expenses due to the impact its actions had on the cost of alternative insurance.

Advantage didn't agree with this outcome and asked for an ombudsman to consider the matter.

It has been passed to me to decide.

I issued a provisional decision in June 2024 explaining that I was intending to uphold Miss H's complaint. Here's what I said:

provisional findings

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 my intention is to uphold this complaint. Let me explain.

October 2022 claim

I acknowledge Miss H's comments that the collision she had in October 2022 was minor. She explains she'd reversed to make room to then drive around the car in front. She misjudged and collided with the car's rear bumper at low speed. I also acknowledge Miss H's view that no or little damage could've been caused as a result of this incident. This is why she thinks the amount Advantage paid in respect of the third-party's repairs is high.

In its complaint response Advantage explains that the third party was also insured through the same broker/policy administrator that Miss H used. It says the damage claim was consistent with a low-speed impact and that no damage unrelated to the accident, was repaired. It also says that the cost of the claim had no impact on Miss H's premium. Rather it was the liability outcome that had an impact as Miss H was deemed to be at fault.

Miss H's policy terms say:

"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."

This is a common term used in insurance contracts. It essentially means it's up to Advantage to decide how to deal with a claim. It doesn't need Miss H's agreement to do this. This doesn't mean that it can do anything it wants. It still has to treat her fairly. But from what I've seen Miss H admitted she drove into the rear of the other vehicle. There was no CCTV footage or witness statements to consider. So, it was reasonable for Advantage to pay for the third-party's repairs. It can't reasonably be known what damage has been caused by a collision until an inspection has been carried out by an engineer. I accept Miss H doesn't think there was any damage. But this doesn't mean there wasn't. Advantage maintains that the repairs weren't exaggerated and that it had sight of both sides of the claim, when considering this point.

Having thought carefully about this, I don't think Miss H has shown that Advantage behaved unreasonably when it relied on its policy terms and paid £3,500 for the third-party's repairs. Clearly Advantage wants to minimise the cost of any claim it's required to pay. I've not seen information that suggests it failed to do so here. Based on this evidence I can't fairly ask it to do anything more.

Cancellation

Following Miss H's accident in May 2023 Advantage became aware that she had a second occupation. It's not clear how this became known, but that isn't relevant here. I've thought about whether its decision to cancel the policy was fair because of this.

Advantage says Miss H carried out paid work in a profession that isn't acceptable under its underwriting rules. It's sent a copy of its underwriting criteria that includes a list of occupations it considers unacceptable. This includes the occupation Advantage believed Miss H was employed in.

The business has supplied a call recording from an interview its assessor conducted with Miss H in August 2023. I've listened to this call, which lasts for around an hour and ten minutes.

During the call the assessor asks Miss H if she works in the occupation in question. Miss H says, yes. She thinks she gets paid about £20 per week but says it's just a hobby and not her main occupation. The assessor asks if she's actively looking for other employment in this occupation if one came up. Miss H says, yes. The assessor asks if she's paid £20 per week. Miss H then says that she works at weekends. Also, that she works for another company related to this occupation. She explains that she works once a week, but that she's just stopped that contract now.

In the call the assessor asks Miss H how long she's been looking for this kind of work. She says she's only been doing so for a couple of months. The assessor asks if Miss H had worked in this occupation before her policy started in March 2023. He says her social media refers to this type of work back in March. He says this indicates she'd been working in this occupation for longer than a couple of months. Miss H responds to say that yes she has. But she says she first started getting paid for this type of work in May.

Based on this information Miss H was getting paid for work in an occupation Advantage isn't prepared to cover. But she says that she wasn't being paid for this occupation until after her policy renewed. Her policy terms under the heading "Keeping your policy up to date" say:

"At renewal, you must tell us if any of the information has changed... You're responsible for keeping the details on this Policy up to date... You must let us know if you move house, change your job..."

And:

"Some changes may result in an amendment fee being charged; see 'our fees' in your cover summary for more details.

Some details to your circumstances can affect how your insurer will assess the Policy risk and may result in an extra premium being charged or in a reduction in premium."

These terms don't say Advantage can cancel the policy for any of the reasons detailed above. Only that it may amend the premium or charge a fee. I also note that this information is only detailed on page 37 of its 56-page policy booklet. I don't think this reasonably stands out as something that was made clear to Miss H when her policy renewed.

I've read the cancellation section of Miss H's policy terms. It explains Advantage can give Miss H seven days' notice to cancel if she doesn't provide reasonable co-operation in order to allow her policy to be processed, or in relation to a claim, or to allow the business to defend its interests.

The reason given by Advantage for the cancellation is that Miss H had a second occupation that presented a risk it wasn't prepared to cover. It's confirmed this via the underwriting information it provided. However, from what I've seen Miss H only started receiving payments for this occupation after her policy inception. This isn't something she was being paid for when her policy renewed. Our approach when considering mid-term changes to a policy is to decide if the change is fundamental to the risk posed to the insurer.

A fundamental change in risk could be a new car with a more powerful engine, a change from a provisional to a full driving licence, or the customer moving house to a different area. We wouldn't normally consider a change in occupation a fundamental change to the risk. This is unless the occupation involves more driving. For example, if the customer takes a job as a taxi or delivery driver. But I can't see that this is the case here. In her interview Miss H explains that her main occupation is an office job. She says the other occupation is done on the weekend. From the evidence I've seen this wasn't regular work. And Miss H wasn't paid

for doing this type of work until after her policy inception.

Having considered this information, I don't think Miss H taking on some paid work mid-policy term qualifies as a fundamental change to the risk she posed. Because of this I don't think it was fair that Advantage cancelled her policy.

Advantage says it hasn't recorded the cancellation on any external data bases. But it didn't tell Miss H this. She says she thought she had to declare the cancellation to other insurers. I think this is a reasonable assumption given that Advantage had cancelled her policy. As a result, she says the quotes she obtained for replacement insurance was too expensive. This meant she couldn't use her car and had to use public transport. It also meant the occasional use of taxis and paying for temporary insurance for short periods, so she was able to drive her car. Miss H has a young daughter and explains that she was caused a great deal of inconvenience and anxiety as a result of Advantage cancelling her policy.

In these circumstances I think it's fair that Advantage writes to Miss H to confirm her policy was cancelled in error and that any record of this has been removed. It should also reimburse her for the travel expenses she incurred. However, I can only consider the issues raised by Miss H up to the complaint response Advantage provided on 19 September 2023. She's provided evidence of train fare's amounting to £23.85 for this period, which the business should refund. But Miss H will need to make a separate complaint regarding the travel costs she incurred after Advantage provided its final complaint response.

Having considered all of this I don't think Advantage treated Miss H fairly when deciding to cancel her policy for the reasons it gave. This has clearly been very distressing and caused Miss H inconvenience. To acknowledge this, it should pay her £300 compensation, refund her travel expenses up to 19 September 2023, and confirm there are no records of the cancellation.

I said I was intending to uphold this complaint and Advantage should:

- write to Miss H to confirm her policy was cancelled in error and that records of this on any internal or external data bases have been removed;
- pay Miss H £300 for the distress and inconvenience it caused her; and
- pay £23.85 to cover Miss H's travel expenses when her policy was unfairly cancelled.

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Miss H responded to say my provisional findings are unfair. She says the compensation and reimbursement for her travel costs are too low. Miss H says she has provided proof of her costs, which seem to have been forgotten.

Advantage responded to say it found out about Miss H's second occupation during its interview with her. It says my comment that it was unclear how it became aware of this is, "an utter falsehood". It says Miss H was evasive and imprecise in her descriptions of her new occupation. Advantage says its interview wasn't to establish fraudulent behaviour, but her actions prior to and during this interview gave its investigator reason to press her further.

Advantage says its policy terms allow it to cancel if Miss H doesn't tell it about changes and take reasonable care to ensure the information she provides is honest, full, and correct. It says it has taken the lesser route here by not imposing the full weight of its term that allows it to cancel from the start, apply an additional premium, reject the claim, or only pay part of it, and require Miss H to pay the cost of any third-party claims.

Advantage says the positioning of its policy terms do not hold some form of hierarchical format. It says it is strange that this suggestion was made in my provisional decision.

Advantage says it disagrees with my comments regarding the mid-term change in occupation. It says the risk isn't just related to driving but also to the risk of damage due to fire, theft or vandalism, and malicious damage. It says people employed in the occupation Miss H works in present an increased risk.

Advantage says it hasn't cancelled Miss H's policy in error. Rather this was a carefully considered action based on evidence. It say this evidence has been largely overlooked by our service. It also says my findings have sought to defend Miss H on a "*a wildly un-impartial basis taking leaps in judgement and making assumptions without merit*". It asks that I reconsider my decision.

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 I'm not changing my decision.

I'm sorry Miss H doesn't think £300 compensation is fair. But she hasn't provided new information or an explanation that persuades me to increase this amount. As discussed in my provisional decision Miss H has clearly been caused some distress and inconvenience. But I think £300 is an appropriate payment to acknowledge this. I'm satisfied this aligns with awards our service considers fair in these circumstances.

In my provisional decision I explained that I could only consider up to 19 September 2023, which is the date Advantage sent its final complaint response. Miss H will need to make a separate complaint to claim back any travel costs after this date.

I acknowledge what Advantage says about when and how it became aware of Miss H's new occupation. It wasn't clear to me if the business had become aware of the occupation prior to the interview it carried out. But in my provisional decision I also made clear that this was a moot point. My focus was on whether it was fair to cancel the policy. When or how this information became known wasn't of significance.

The point I made in my provisional decision about the positioning of the relevant policy terms was to highlight that its important for any key terms to be brought clearly to the policyholder's attention so they can ensure they provide important information about any changes in circumstance. I note what Advantage says on this point. But this doesn't alter my decision. I don't think it was fair to cancel the policy based on a mid-term change to Miss H's occupation. The policy terms and conditions it points to don't impact on this.

In my provisional decision I confirmed our services long standing approach to mid-term changes such as this. More specifically, this requires that we decide if the change is fundamental to the risk posed to the insurer. I note what Advantage says about this. But this doesn't persuade me that our approach isn't fair here. Miss H took on some part time work mid-term. I don't accept Advantage's view that this qualifies as a fundamental change to the risk she posed, or that it was fair to cancel her policy. This was therefore an error. So, I'm not persuaded to change my decision.

My final decision

My final decision is that I uphold this complaint. Advantage Insurance Company Limited

should:

- write to Miss H to confirm her policy was cancelled in error and that records of this on any internal or external data bases have been removed;
- pay Miss H £300 for the distress and inconvenience it caused her; and
- pay £23.85 to cover Miss H's travel expenses when her policy was unfairly cancelled.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 20 August 2024.

Mike Waldron
Ombudsman