

The complaint

Mr R complains about how Advantage Insurance Company Limited (Advantage) handled a claim he made on his motor insurance policy.

What happened

Mr R says his car was damaged by a falling tree branch and he contacted Advantage to make a claim under his motor insurance policy. Advantage initially accepted the claim and instructed an engineer to inspect the damage. They said it would be recorded as a “fault” claim – as they had no third-party to make a recovery from.

Advantage said the engineer’s report was inconclusive – but they also found a claim Mr R had made on his previous insurance policy – exactly one year before this claim, for damage caused by a falling tree branch. They said they reached out to Mr R’s previous insurer and requested information from them. Advantage said the photos and information they received was consistent with the damage Mr R was claiming for. They felt Mr R was making a claim for damage done previously, so they ultimately declined the claim.

Mr R thought this was unfair and complained to Advantage. He said there had been a small amount of damage caused to his car the previous year, but the new claim he made was for a different set of damage and Advantage had combined the two incidents to decline the claim. He felt it was unfair that he had paid for a years’ worth of insurance cover and Advantage weren’t going to pay to fix the damage to his car. He was also unhappy with how they’d handled the claim and said they’d caused delays.

Advantage responded to Mr R’s complaints in May and June 2024 and upheld them in part. While they didn’t change their stance on the claim decline outcome, they did agree there had been some delays and errors in providing information Mr R had requested as well as how they handled the subsequent complaint, and they awarded a total of £150 compensation.

Mr R remained unhappy with their response, so he brought the complaint to this Service. An Investigator looked at what had happened but didn’t recommend the complaint should be upheld. He thought Advantage had exercised their rights under the policy reasonably in declining the claim, based on the available evidence. He also thought Advantage’s compensation was fair, given the issues caused to Mr R.

Mr R disagreed with the investigator and asked for an Ombudsman to review the complaint, so it’s 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.

Having done so, I’ve decided not to uphold this complaint. I appreciate this will be disappointing to Mr R – so I’ll explain why.

Advantage declined Mr R’s claim under the policy’s terms “General Conditions” - which say:

"You must comply with the conditions below. If you don't, depending on the circumstances, your Insurer may be entitled to cancel the Policy, refuse to deal with your claim or reduce the amount of any claim payment..."

7. Fraud

You must not act in a fraudulent manner. If you, or anyone acting for you:

- *Knowingly provide information to us that is not true*
- *Mislead us in any way, including about who is the main user of the Car, in order to get insurance from us, obtain more favourable terms or reduce your premium*
- *Make a claim under the Policy knowing it to be false or fraudulently exaggerated in any respect...*

Then, depending on the circumstances:

- *Your Insurer may be entitled to refuse responsibility for the claim to which the alleged fraud or falsehood relates. They may also be entitled to cancel or void the Policy without refunding your premium."*

This is a common term in most insurance policies which allows insurers to decline claims that they feel are false, exaggerated, or the result of fraud. So, I don't find this to be unreasonable – provided Advantage have applied this term fairly.

After Mr R reported the claim to Advantage, they instructed an engineer to look at the damage to the car. The engineer's report said there was a dent on the roof of the car "*which could be related to something falling on the vehicle*". The report also said there was a chip in the car's windscreen, but it said this looked to be a stone chip. The report also identified marks to the bonnet and boot lid. The report concluded that "*the customer is adamant that damage was caused by falling debris. We can neither support or refute this based on the limited information currently available.*"

Advantage then identified a declined claim Mr R had made with his previous insurer the year before that he hadn't told them about. They contacted Mr R's previous insurer and asked for information they held about this claim. The previous insurer provided photos and the circumstances of that claim and Advantage ultimately felt that Mr R was trying to make a claim for damage that had occurred previously.

I've considered the photos the previous insurer provided to Advantage and the engineer's report; and I note there are scratches and dents highlighted in the same locations as Advantage's engineer's report. I appreciate Mr R says that the damage is the result of two separate incidents in which tree branches fell on his car twice. He feels Advantage have merged the incidents and said they are one and the same in order to decline repairing his car.

In situations like this, where the evidence may be incomplete or contradictory, I'll need to make my decision on the balance of probabilities. That is, what I think is more likely than not to have happened, given the evidence which is available and the wider circumstances of the complaint. I've considered the damage identified in the engineer's report and the previously declined claim. I've also thought about the fact that Mr R did not report the previous claim when he took out the policy, as well as the relative timing of when Mr R reported the claim in relation to the previously declined claim.

On balance, I'm satisfied Advantage have considered the available evidence and made a fair and reasonable conclusion in declining to cover the claim. And I think Advantage acted in the same way any insurer in the industry is likely to have acted in these circumstances. Overall, I'm satisfied Advantage acted reasonably and in line with the policy terms, so it follows I don't require them to do anything more than they have already.

In respect of how Advantage recorded the claim – I can see they originally explained they would be treating the claim as 'fault' under the policy. They said this was because they didn't have anyone to make a claim against. It's normal insurance practice for a claim to be recorded as fault on insurance databases where an insurer cannot recover their claim costs from anyone.

But I understand that due to declining the claim, Advantage have now recorded it as "notification only" and allowed Mr R's no claims discount (NCD) entitlement. I find this to be fair and reasonable in the circumstances, so I don't require them to change this. I also won't be directing them to remove the claim from Mr R's insurance records. This is because Advantage incurred costs in investigating the claim, and they have a duty to record all claims and incidents under the Claims and Underwriting Exchange database (CUE).

I can also see Mr R was unhappy with how Advantage handled the claim and subsequent complaint. He said they caused delays and didn't reply to information requests. And I can see Advantage agreed in their final response that this was the case. So, I need to consider what the impact of the mistake was and what steps they've taken to address this.

Advantage paid £150 compensation to make up for any distress and inconvenience caused in how they'd handled the claim and complaint. They apologised in their final response for their errors and said they'd taken steps to ensure it doesn't happen again. Overall, I consider the compensation to be fair and reasonable and in line with what I would have directed if Advantage hadn't made such an offer, so I'm not going to direct them to increase this.

My final decision

For the reasons given above it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 7 January 2025.

Stephen Howard

Ombudsman