

The complaint

Mr and Ms B have complained about the way their motor insurer, Admiral Insurance (Gibraltar) Limited ('Admiral'), dealt with a claim they made on their policy.

In my decision, for ease, I will mainly be referring to Mr B as he is the party we have been liaising with the most.

What happened

Mr and Ms B had a motor policy with Admiral. Ms B was the policy holder and Mr B was a named driver.

In May 2023 Mr B was involved in an accident with another car. He says the other car hit him and that he wasn't at fault. Mr B said that he was reversing into a space and that the third party had flashed him to go. He said he then pulled forward to straighten the car and the third party moved forward and collided with the wing of his car. When Mr B reported the incident he said he had witness details and would call back to provide those.

Admiral dealt with the claim on Mr B's policy and said the car was a total loss. Around June 2023 it paid him £16,315 for the market value of the car based on a valuation of £17,165 and after deducting the £850 excess.

Admiral's file was then closed until December 2023 when Ms B called and said that she had tried to get insurance through another company and was told that this claim was still open. Admiral said that the claim was closed and had been recorded as a fault claim. It agreed to write to her new insurer to confirm it was Mr B who was driving at the time.

Mr B contacted Admiral in February 2024 and said he was unhappy the claim was a fault claim. Admiral said this was because he was the reversing party and the onus was on him to check before reversing. Mr B said that he had witnesses but when asked if he knew them he said they were his family. He later retracted this and said they were people passing by. Admiral told him to provide the witness details if he still had them and said it would reopen the file.

Mr B complained and said he was never contacted and told this would be a fault claim and he was also unhappy that the witness details were not recorded. He also felt that the valuation for the car should be increased by £5,000.

Admiral issued a response in February 2024 and upheld the complaint in part. It agreed that it didn't record the witness information or contact Mr B before recording this as a fault claim. It offered him £100 for the distress and inconvenience it caused him and £51.50 interest on the £16,315 it had paid him and said there was a delay in paying the settlement in May

2023. It stood by its market value offer and said it had used recognised motor trade guides to arrive at this valuation.

Mr B contacted Admiral again in June 2024 and said he was still unhappy with how it handled the claim. In addition to his previous complaint points, Mr B said he found Admiral's processes controlling and he was also unhappy about the service he received and said there were two claims recorded on his policy.

Admiral didn't uphold the complaint. It said that it stood by its previous final response and thought the £100 it had offered Mr B was sufficient. It referred Mr B to its policy terms which say it has the right to deal with a claim as it sees fit. It also said that there was only one claim recorded on the policy.

Mr B wasn't happy with Admiral's response and brought his complaint to us. He said he didn't want the claim to be recorded as a fault claim and wanted an increase in the valuation offer he received from Admiral.

Before the matter was considered by one of our investigators, Admiral increased its offer by another £150 in recognition of the distress and inconvenience it caused Mr B by the lack of communication during the claim. Our investigator put this offer to Mr B who rejected it. He said he considered the market value to be £22,000 as opposed to the £17,165 Admiral had offered him.

The matter was then reviewed by our investigator who thought it should be upheld in part. He thought that a fair valuation for Mr B's car was £17,600 based on the available trade guides and asked Admiral to pay the shortfall plus interest. He also asked it to pay a further £150 compensation to bring it to a total of £250 for its poor communication. He thought Admiral's decision to treat this as a fault claim was fair and reasonable in the circumstances. He also said he found no evidence of Mr B providing Admiral with witness details.

Admiral agreed with our investigator. Mr B didn't and said Admiral should pay a further £5,000 for the claim and not treat this as a fault claim. He said he wanted our investigator to listen to the first notification of loss call and Admiral's subsequent call and insisted that Admiral failed to contact his witnesses. Admiral was only able to provide the second call. After listening to the call our investigator didn't change his view. He said there was no evidence that Mr B provided Admiral with his witness details.

Mr B asked for an ombudsman's decision and the matter was 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.

The decision to treat this as a fault claim

Under the terms and conditions of the policy, Admiral is entitled to defend a claim on its insured's behalf. This is a common term in motor insurance policies and one I consider to be fair as it enables insurers to keep the cost of claims under control. I think it is fair and

reasonable for Admiral to rely on this term as long as it does so fairly and reasonably.

When Mr B reported the claim, he told Admiral that he was reversing into a parking place. He said though the other party flashed him to proceed, when he tried to straighten the car the other party moved forward and collided with him. Admiral settled Mr B's total loss claim and registered it as a fault claim. Admiral said that as Mr B was reversing the onus was on him to check before making his manoeuvre. Mr B later said that he was stationary when the collision happened, but I think his initial version of events was likely to be the most accurate as the events were fresher in his mind.

As our investigator said, it is not our role to decide whose fault the accident was. That is for Admiral to consider and if the matter ever goes to court it will be for a court to decide. Based on the evidence available I don't think Admiral's decision that this is a fault claim is unfair or unreasonable. I am not aware of there being any evidence other than what Mr B has told Admiral and even on Mr B's version of events Admiral thinks he would be, at best, partly at fault for the accident. I think this is fair and reasonable. As the party executing the manoeuvre the onus would be on him to check it is safe to do so before proceeding.

I should explain that a fault claim doesn't necessarily mean that Mr B was fully at fault for the accident. It means that Admiral hasn't yet or believes it is unlikely it will be able to make a full recovery of its outlay i.e., everything it paid towards the claim. As Admiral believes that Mr B was at least partly responsible for the accident, it believes it is unlikely it will ever make a full recovery of its outlay. Admiral has also said that it wasn't able to find insurance details for the third party which, I understand, would make it more difficult for it to recover its outlay. So, I think it's decision to record this as a fault claim is fair and reasonable.

Mr B said that he had three witnesses and that Admiral failed to take their details down and contact them. At some point Mr B said that the witnesses were members of his family but he later said they were independent. From what I have seen, Mr B mentioned the existence of witnesses a number of times in his communications with Admiral. But I can't see that he ever provided their details. Also, from what I have seen, even after he raised his complaints Admiral said it would reopen the file and contact the witnesses. But I can't see that their details were ever provided. It follows that I don't think there was anything further Admiral could do in this regard.

The valuation

The terms and conditions of Mr B's policy say that, amongst other things, Admiral will cover the insured against loss of or damage to their vehicle which results from an accident. If it decides to pay a cash sum to replace the damaged vehicle, the most it will pay is the market value of the vehicle.

The policy defines the market value as "*The cost of replacing your vehicle; with one of a similar make, model, year, mileage and condition based on market prices immediately before the loss happened... This value is based on research from industry recognised motor trade guides.*"

Our service has an approach to valuation cases like Mr B's that has evolved in recent times. When looking at the valuation placed on a car by an insurance company, I consider the approach it has adopted and decide whether the valuation is fair in all the circumstances.

Our service doesn't value cars. Instead, we check to see that the insurer's valuation is fair and reasonable and in line with the terms and conditions of the policy. To do this we tend to use relevant valuation guides. I usually find these persuasive as they're based on nationwide research of sales prices.

Admiral used two of the four motor guides we use. We consulted the other two which returned values of £16,337 and £17,224. The guides Admiral used produced values of £16,730 and £17,600. I've also reviewed the valuations our investigator got for the same guides, and they are broadly in line with the valuations Admiral used so I'm satisfied that these valuations are for Mr B's car. I think the four valuations are fairly close to each other and I, therefore, didn't consider any to be an outlier. So I haven't discounted any of them.

Admiral valued Mr B's car at £17,165 which is the average of its two valuations. It hasn't provided us with any evidence such as adverts in support of its valuation being fair, despite being lower than the highest valuation of £17,600.

Mr B has also not provided any further evidence in support of his estimate that the car was worth £22,000 though he said this is the price he bought it for, several months before the accident. Unfortunately, I don't consider this to be persuasive evidence of the car's market value at the time of the accident. I say this because the purchase price of a car isn't necessarily the same as the market value which is what the insurer is obliged to pay under the terms and conditions.

Looking at the valuations produced by the guides I'm not persuaded that Admiral's offer of £17,165 is fair. This is because it sits roughly in the middle of the trade guide valuations and it hasn't shown why its offer is fair or that Mr B can replace his car with a similar one for the amount offered. In these circumstances, to be satisfied that Admiral's offer represents a fair valuation, as I said above I'd expect to have been provided with other evidence (for example adverts for cars for sale around the time of the loss or expert reports) to support that a lower valuation point is appropriate. And I'd need to be satisfied that this evidence is relevant and persuasive before accepting that a lower valuation should be used.

Given there isn't any other evidence to persuade me that a valuation in line with the higher valuations produced is inappropriate and to avoid any detriment to Mr B the highest valuation produced by the guides is my starting point. And considering the overall variation of the values produced and the lack of other evidence provided by Admiral, I consider that a more appropriate and fair market valuation would be £17,600. And I think that Mr B should be paid 8% simple interest for the time he has been without the additional money owed.

Admiral's service

Admiral has accepted that its service wasn't always good. It said its communication with Mr B was poor and acknowledged that it didn't tell him that this would be registered as a fault claim. Mr B had to contact it himself to find out. Though, as I said above, I don't think

Admiral's decision to treat this as a fault claim was unfair or unreasonable, I think its failure to make Mr B aware of this would have caused him distress and inconvenience and I think the £250 overall compensation awarded by our investigator is in line with awards we would make in similar circumstances. In saying this I have also borne in mind that while Mr B wasn't aware that this was a fault claim, he didn't suffer any distress.

I appreciate Mr B will be disappointed with my decision but for the reasons I have given I don't think Admiral should pay him a further £5,000 for the market value of his car or treat this as a non-fault claim.

My final decision

For the reasons above, I have decided to uphold this complaint. Admiral Insurance (Gibraltar) Limited must pay Mr and Ms B £435 this being the difference between the £17,165 it initially valued the car for and the £17,600 which I feel is a more fair valuation. It must also pay simple interest of 8% per year on the £435 from the date it made its total loss offer to Mr and Ms B to the date it pays them.

Admiral Insurance (Gibraltar) Limited must also pay Mr and Ms B a total of £250 compensation for the distress and inconvenience it caused them. If it has already paid the £100 it previously offered, then it must only pay the remaining £150.

Admiral Insurance (Gibraltar) Limited must pay the compensation within 28 days of the date on which we tell it Mr and Ms B accept my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

If Admiral Insurance (Gibraltar) Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Ms B how much it's taken off. It should also give Mr and Ms B a tax deduction certificate if they ask for one so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Ms B to accept or reject my decision before 6 February 2025.

Anastasia Serdari
Ombudsman