

The complaint

Ms B and Mr B have complained about Advantage Insurance Company Limited's handling of a liability dispute during a claim made under their motor insurance policy.

What happened

Mr B is the policyholder of a motor insurance policy, underwritten by Advantage, under which Ms B is a named driver. This complaint is about Advantage's handling of a claim they made for an accident Ms B was involved in.

Ms B and Mr B complain that Advantage unreasonably decided to accept 100% fault for the accident, despite them providing dashcam footage which they say shows fault lay with the third-party.

Early in the claim, Advantage appointed solicitors to act on Ms B and Mr B's behalf in recovering their losses. Sometime after Advantage told Ms B and Mr B it was accepting 100% fault; the solicitors reviewed the evidence and suggested a 50/50 liability should instead be pursued.

An investigator at the Financial Ombudsman Service considered Ms B and Mr B's complaint and thought it should be upheld. He said Advantage had a duty to conduct a reasonable investigation into liability before reaching a decision, but he didn't think it had done so initially. He said Ms B and Mr B suffered avoidable distress and inconvenience as a result of Advantage's poor investigation, because they'd worried about not being able to afford the policy excess, and the impact on Ms B's personal injury claim. The investigator recommended Advantage should pay Ms B and Mr B £150 compensation to resolve the complaint.

Advantage said it is standard for its position on liability to change during a claim journey depending on the evidence provided. When it received legal opinion, Advantage changed its position and attempted to pursue 50/50 liability. Advantage also said that Ms B and Mr B's excess was due and payable regardless of fault, and so any worry they had about paying the excess wasn't the result of their initial liability decision. So, it didn't agree with the investigator's recommendation.

As no agreement has been reached, the complaint has 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 agree with the outcome reached by our investigator. I'll explain why.

Having reviewed Advantage's claim notes, it's clear that from the outset there were differing opinions on liability for the accident. One of the earliest comments within the claim notes indicates that staff within Advantage felt the dashcam footage was sufficiently persuasive evidence that Ms B was already established on the roundabout before the collision took place, and that the third-party vehicle wasn't in view when she entered the roundabout.

A technical specialist at Advantage later said Ms B would be liable for the accident on the basis that she failed to give way despite the presence of clear signs. And it was on this basis that Advantage told Ms B and Mr B that Ms B was being held fully at fault for the accident.

Advantage appointed solicitors to represent Ms B and Mr B early in the claim. And given the clear differences of opinion, even among Advantage's staff, and the content of the dashcam footage, I think it would have been fair for Advantage to wait for the solicitor's opinion before reaching its decision liability. This would have prevented foreseeable and avoidable distress and inconvenience being caused to Ms B and Mr B – given that, by its own admission, Advantage accepts further evidence in the form of legal opinion can routinely change its stance on liability in claims of this nature.

The investigator recommended Advantage should pay £150 compensation on the basis that Advantage's decision had caused them to worry about paying the claim excess and the likely prospects of Ms B's personal injury claim. But Advantage says neither of these things would have been impacted by the decision to accept liability.

I've thought carefully about this. Having done so, I still think Advantage's actions have resulted in avoidable distress and inconvenience and that it should pay compensation as a result.

I say this because regardless of whether Ms B and Mr B's worries about the impact of the liability decision were unfounded, their concerns were clearly exacerbated by Advantage's, in my view, unfair, initial decision. In addition, I think it would be understandably frustrating and upsetting to be told you are solely responsible for an accident which you justifiably feel you weren't – by the business whose role it is to (within reason) support you in the event of a claim. And I think it would have been indisputably inconvenient to need to make a formal complaint and to pursue it all the way through the Financial Ombudsman Service, just to obtain recognition of this fact.

Taking all of that into account, I agree that Advantage's initial liability decision was unfair and unreasonable in the circumstances, and that Ms B and Mr B suffered from avoidable distress and inconvenience as a result. To put things right, Advantage should pay them £150 compensation.

My final decision

For the reasons I've explained above, I uphold Ms B and Mr B's complaint.

Advantage Insurance Company Limited must pay Ms B and Mr B £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr B to accept or reject my decision before 3 March 2025.

Adam Golding
Ombudsman