

The complaint

Mr C is unhappy with the decision made by Advantage Insurance Company Limited (Advantage) following a claim made under his car insurance policy.

What happened

In August 2022 Mr C purchased a car insurance policy underwritten by Advantage. The policy terms explained:

Caring for your Car

- *You must give your Insurer access to examine your Car and if asked send them evidence of a valid MOT and/or evidence your Car was regularly maintained and kept in a good condition*

Keeping your Policy up to date

You must tell us immediately if:

- *You, or any insured driver/s or Car/s, are involved in an accident, no matter how minor and regardless of blame and whether or not you want to make a claim*

Theft claims

You're not covered for any claim for the theft of your Car unless:

- *You've reported the theft to the nearest police authority within seven calendar days of discovery*
- *You've obtained a police crime reference number and details of the police station the crime was reported to. Having a crime reference number doesn't guarantee your Insurer will settle a claim*

Advantage received notification from a third party insurer (TPI) about an incident involving Mr C's car that took place on 20 August 2022.

On 7 September Advantage contacted the number it had on file for Mr C to discuss the incident. The call was answered by Mr C's nephew. During this call Advantage was informed that there had been an incident involving Mr C's car, however the driver at the time was Mr U. Mr U called Advantage on the same day and confirmed he'd been driving Mr C's car. Mr U also said on this call that Mr C's car had been stolen, and that this had happened on 2 September 2022.

On 7 September 2022 Advantage also received notification by email about both incidents involving Mr C's car. The email was sent by Mr C's daughter on behalf of Mr C. The email explained '*On Saturday 20 August 2022 Mr C's vehicle was involved in a collision however he was not the driver at the time of the incident. The driver was [Mr U]. On Friday 2nd*

September Mr C's vehicle was stolen which has been reported to the police. The crime reference number is...'

On 14 November Mr C contacted Advantage by phone to confirm the theft of his car. Advantage contacted Mr C on 21 December to further discuss the claim circumstances. Mr C informed Advantage that he'd been out of the country from 10 August to 23 October. Mr C was asked why the theft wasn't reported immediately on his return. Mr C asked for the claim to be discussed with Mr U.

During the call with Mr U he advised that several emails had been sent to Advantage in September but no response had been provided at the time. The call handler asked what damage Mr C's car had sustained during the incident from August 2022. Mr U said the front bumper had been damaged. Mr U confirmed he'd reported the claim to his own insurer, L. Advantage contacted L to find out what had been reported about Mr U's claim for damage to

Mr C's car in August 2022. Following the conversation with an L representative, it was determined that:

- Mr U's policy included third party cover, but loss or damage when driving other cars wasn't covered. Because of this L hadn't agreed to cover the damage sustained on Mr C's car, and Mr U was made aware of its decision around the date of the incident.
- At the time Mr U reported the claim to L, it was recorded the damage sustained on Mr C's included '*frontal damage (bonnet, bumper, windscreen on passenger side cracked, bumper has fallen off, unsure if the bonnet was operational, vehicle was marked as unroadworthy and airbags deployed - advised the vehicle was reported as heavily damaged)*'
- No images were provided of Mr C's car to L because of its decision not to offer cover. The next time L contacted Mr C was on 7 September to confirm the TPI's claim for damages.
- L was unsure if the vehicle was suspected to be a total loss or repairable, however based on the damage it's most likely the vehicle would have been deemed a total loss.

L sent Advantage a copy of the third party engineer's (TPE) report on the damage sustained by the other car involved in the collision in August 2022. Advantage also found that Mr C's car didn't have valid MOT in place at the time of the reported theft, as this had expired on 13 May 2022.

After considering the evidence, Advantage said it wouldn't be paying out for Mr C's theft claim. It said that the August 2022 incident would've likely resulted in Mr C's car being deemed a total loss, and Mr C's car at the time of the theft would have only been worth the salvage amount.

Mr C was unhappy with this response, and brought his complaint to the Financial Ombudsman Service.

The investigator found that Advantage had acted reasonably in reaching its decision to decline Mr C's claim. Mr C asked for his complaint to be referred to an ombudsman. As the complaint couldn't be resolved, it has been passed to me for decision.

I issued a provisional decision on Mr C's complaint. This is what I said about what I'd 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.

I'd like to reassure the parties that although I've only summarised the background to this complaint, so not everything that's happened or been argued is set out above, I've read and considered everything that's been provided.

When we investigate a complaint about an insurer's decision on a claim, our role is to consider whether the insurer handled the claim in a fair and reasonable manner. So I've considered the evidence to determine whether Advantage has acted fairly and reasonably in reaching its decision on Mr C's claim.

It's not disputed that the actions taken by Mr C to report the theft of his car, are in line with the policy terms. Mr C informed Advantage that the theft took place on 2 September 2022. I've seen a copy of the acknowledgement email sent by the police report on the same date. And Advantage accept Mr C first notified it of the theft on 7 September. I'm satisfied Mr C did what was needed in line with the policy terms to show that an insured event had happened.

Where an insurer chooses to decline a claim, it's for an insurer to substantiate its position in saying that an insured event hasn't happened. In this case, I've seen that Advantage informed Mr C that the reason for declining his claim was because of the car being a total loss at the time of the reported theft. Advantage's explanation might be a reason to explain why any liability for the loss is being capped. But it isn't enough to say that Mr C's claim shouldn't be covered. In other words, Advantage hasn't provided enough evidence to override Mr C's evidence showing that an insured event has taken place.

I can't see that Advantage took any steps to properly investigate Mr C's claim. If Advantage had reason to believe that the theft didn't happen the way Mr C had reported, we'd expect it to provide solid reasoning, referencing the policy terms relied on where relevant, to support its decision to decline the claim. Having considered Advantage's investigation, it appears to have relied more heavily on circumstantial and, in some cases, immaterial evidence. Advantage said Mr C's car didn't have a valid MOT in place at the time of the reported theft. Although it has provided proof of this, the provision of MOT has no bearing on the theft itself, or likelihood of it happening. So I don't think this is a reason in itself to decline Mr C's claim.

During the claim, Advantage also questioned whether Mr C was in the CCTV footage provided. I haven't listened to this call. But it's evident that Advantage later conceded that Mr C's statement was more than likely caused by a language barrier, rather than an admission of him being in the country when he said he wasn't. So I also can't see this evidence as being a relevant factor for declining Mr C's claim.

It's reasonable for an insurer to interrogate any evidence presented, and reach a fair and reasonable outcome, to explain its decision on a claim. But I can't see that Advantage did this. Advantage has provided comments to this Service about its rationale for challenging Mr C's version of events. But it ought to have investigated these concerns earlier in the process. It could've achieved this by taking a number of practical steps, such as obtaining a copy of the police report, asking to inspect Mr C's car keys, or providing Mr C with the opportunity to provide any further clarification that it needed.

Instead I've seen that Advantage has relied on the testimony of L to inform its decision in saying that Mr C's car would've been a total loss. But there are several challenges to this. L didn't instruct an independent engineer to inspect and report on Mr C's car. The comments made by the L representative wouldn't carry the same credibility or persuasion as an independent engineer, who we would expect would have the knowledge and qualifications to determine a car a total loss.

Advantage say it referred L's description of the damage through its own system, and in-house engineer. Whilst these steps were reasonable, I don't think the outcome justifies Advantage's position in saying that an insured event hasn't taken place.

I've reviewed the policy terms and there isn't anything to suggest that Mr C didn't have a valid policy in force at the time of the reported theft. In fact, the wording suggest the policy would remain in force after a total loss decision, and only be cancelled in specific circumstances- which I can't see apply here.

As Mr C had a valid insurance policy in place at the time of the reported theft, and on balance, he has shown an insured event has happened, it is for Advantage to consider this claim. As it stands, for the reasons explained, I don't think Advantage has done enough to disprove Mr C's claim for an insured event in line with his policy.

Putting things right

I'm minding to direct Advantage to reconsider Mr C's claim. If Advantage can't substantiate a decline decision, it should pay Mr C's claim in line with the policy terms and conditions.

Provisional decision

I'm minded to uphold this complaint and direct Advantage Insurance Company Limited to put things right as set out above.

The responses to my provisional decision

I invited both Mr C and Advantage to respond to my provisional decision. Mr C accepted my provisional decision. Advantage provided additional comments in response to the provisional decision and made an offer to settle Mr C's complaint.

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.

In response to my provisional Advantage has provided substantial comments and evidence supporting its decline decision on Mr C's theft claim. I've carefully considered the points raised by Advantage. I've focused my comments on what I think is relevant. If I haven't commented on any specific point it's because I don't believe it has affected what I think is the right outcome.

I should start by explaining its not the role of this Service to act as claims handlers. There might be circumstances where it's helpful to share evidence between parties which might've been overlooked during the claims process, or where, because of the timing of the complaint being referred to this Service, one or both parties didn't have the opportunity to share evidence to resolve the complaint sooner.

But I can't see that any of those circumstances apply here. Advantage has provided additional reasoning and evidence supporting its investigation of Mr C's claim. I've also seen that Advantage has now referred to different terms and conditions in the policy booklet which it considers are relevant for determining its decision on Mr C's claim.

I can't see that this was discussed with Mr C, or this Service, despite Advantage having the opportunity to do this, earlier in the claims process. What Advantage has done, by providing this evidence now (at least in part), is complied with the direction of the provisional decision.

I think it's reasonable to say it has inadvertently agreed that this is the correct course of action to take in the circumstances.

I don't consider that it is the role of this Service to consider Advantage's submissions, and reconsider the provisional decision, without Mr C having the opportunity to comment on and respond to this evidence. I can't see that Mr C has been provided with the opportunity to provide his version of events in light of this evidence, or the terms relied on by Advantage in explaining why Mr C's claim should be declined.

Advantage says it would be willing to pay Mr C £300 in recognition of its poor claim handling. But I won't be commenting on this amount, or directing Advantage to pay this, as part of my final decision.

The provisional decision determined that Mr C has shown an insured event has happened, and Advantage hasn't done enough to disprove Mr C's claim for an insured event in line with his policy. If Advantage considers that it has sufficient evidence to do this now, it should inform Mr C of its decision, and substantiate a decline decision. Any dispute that arises from action taken by Advantage would be the subject of a new complaint.

I've carefully considered Advantage's submissions. But I don't think these comments materially change the outcome of Mr C's complaint, or my direction for putting things right. So I'll be directing Advantage to put things right as set out in my provisional decision.

Putting things right

Advantage must reconsider Mr C's claim. If Advantage can't substantiate a decline decision, it should pay Mr C's claim in line with the policy terms and conditions.

My final decision

For the reasons provided I uphold this complaint.

Advantage Insurance Company Limited is directed to follow my directions for putting things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 April 2025.

Neeta Karelia
Ombudsman