

## The complaint

Mr D has complained about the way his motor insurer, Advantage Insurance Company Limited ('Advantage') dealt with a claim he made on his policy.

Advantage is the underwriter of this policy i.e., the insurer. During the claim Mr D also dealt with other businesses who act as Advantage's agents. As Advantage has accepted it is accountable for the actions of its agents, in my decision, any reference to Advantage includes the actions of the agents.

## What happened

I issued a provisional decision on this complaint in April this year. In that decision I said I was considering upholding the complaint and asking Advantage to obtain an independent engineer's report and thereafter pay the claim based on the engineer's estimate in line with the policy terms and conditions. I also thought it should pay Mr D £200 compensation for the distress and inconvenience it caused him. An extract from that decision follows:

*"In June 2024, Mr D made a claim on his motor insurance policy after someone collided with his car while it was parked and unattended. Mr D said he wanted to use his own repairer and asked whether Advantage would be happy to offer him a cash payment in lieu of repairs to which, he says, it said yes.*

*When Mr D provided his estimate to Advantage, it said that the costs were exaggerated and wasn't happy to offer a cash in lieu payment.*

*Mr D wasn't happy about this and complained. Advantage did not uphold the complaint and said Mr D could use its repairer or it would help him get a new estimate.*

*Mr D then brought his complaint to our service. He said he is an engineer and works in insurance and the rates quoted in the estimate are in line with rates used within the industry. He added that he asked Advantage to explain why the estimate was exaggerated and make him an offer, but it did neither. He said Advantage treated him like a criminal and that he also felt that because the third party was also insured by Advantage, it wanted to get the work done as cheaply as possible. Mr D said that the car was subject to a finance agreement, but he didn't want to return it with damage so he had to keep it longer than he would have liked. He said he still wanted a cash in lieu payment as well as compensation.*

*Advantage said that a cash in lieu settlement is outside the terms and conditions of the policy and down to its discretion. It said that the estimate Mr D provided included repairs for items that weren't related to the claim.*

*While the complaint was with our service Mr D confirmed that he returned the car after keeping it for six months longer than required which cost him around £550 per month. He said that the car was returned with damage and later confirmed that £400 was deducted from its value. He also said his new insurer charged him an extra £180 for having this claim on his record which is another reason he decided to return the car.*

*One of our investigators reviewed the complaint but didn't think Advantage had to take any action. She agreed that it was under no obligation to offer Mr D a cash in lieu settlement. She also thought that Advantage's proposals were fair and reasonable and didn't think it should be responsible for Mr D's extra finance payments or any deductions made when he returned the car.*

*Mr D didn't agree and asked for an ombudsman's decision. He said that if a cash in lieu was never an option it should not have been offered to him and that this delayed him from returning the car.*

*After the matter was referred to me, I asked both parties for further information regarding the repairs. They both disagreed with one another with Advantage reiterating that a lot of the work included in the estimate was not necessary or accident related.*

*I asked our investigator to contact the parties and say that I was considering asking Advantage to obtain an independent assessor's report as the evidence presented to us was conflicting. I also said that as Mr D no longer has the car, Advantage should settle the claim by way of a cash settlement.*

*Mr D agreed with the proposal but said he still wanted to be compensated for the delay in him returning his car. Advantage didn't agree. It didn't think an independent assessor's report was necessary and said it considered a cash settlement to constitute betterment as Mr D no longer had the car so he couldn't use the money to repair it. It said it would need to see evidence that money had been deducted by the finance company when Mr D returned the car. It also said that as there has been no claim made yet, the claim could be closed as "notification only" meaning Mr D's no claims discount would not be impacted. It said if it made a cash in lieu payment it would need to evidence the cost of repairs to the third-party insurer and without evidence of the repairs being done it wouldn't be able to make a full recovery meaning this would go down as a fault claim on Mr D's record which would impact future premiums.*

*I then decided to proceed with my provisional decision.*

### **What I've provisionally 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 policy**

*The policy covers, among other things, damage in the event of an accident. If the damage is covered and agreed, Advantage will arrange the repairs to the car. It also states that the parts used may not be made or supplied by the manufacturer. The policy does not cover*

*repairs or replacements which are unrelated to the claim and improve the condition of the car. Also, under the policy if the insured doesn't use one of Advantage's repairers, they will pay an additional excess.*

*Advantage has accepted that Mr D has a valid claim under the policy. So, what's left to decide is the amount it should pay to settle the claim.*

### *The engineering evidence*

*Mr D said he provided two estimates to Advantage. Advantage says it only has one which was for £5,318 including VAT.*

*Advantage said the damage to Mr D's car was a scratch to the right side of the bumper, but Mr D's estimate included things such as repair and refit to the door, roof rail, left side pad and to both side windows. Advantage said that a reasonable repair would have involved repairing and repainting the bumper. It also said at most only one quarter panel would require blending. It added that the rates used were above the industry-wide repair rates for 2024.*

*Mr D said that his estimates did not include repairs to the doors or roof rail. He said the paint is difficult to colour match, so the quarter panels have to be blended when the bumper is replaced. And the doors were never down to repair or repaint. He also said that the rates used were standard within the industry.*

*As I mentioned to both parties, I think the expert evidence is conflicting. Advantage thinks that the only expert evidence is the evidence provided by its in-house engineers. It said that Mr D's estimate doesn't constitute expert evidence in this case as it would have included work Mr D asked for which may not necessarily all be accident related. I accept that the garage provided a repair quote and not necessarily an engineer's report regarding the damage caused in the accident, but I also note that Mr D is, himself, an engineer and works in insurance. This is something that is confirmed in his policy schedule. And bearing this in mind, I don't think it would be fair or reasonable for me to ignore his opinion which is that all the items on the estimate are for damage which was accident related.*

*When the expert evidence presented to us is conflicting, we have to decide wherever possible, which expert's evidence we find to be the most persuasive. To do this we rely on the detail provided in each expert's report, the expert's specialisation, years of experience etc. In this case I have not been provided with expert reports from Advantage's engineers and the comments they provided include as much detail as Mr D's comments to us regarding the damage. So I think the evidence is evenly matched in terms of persuasiveness. And I also don't know what Mr D's or what Advantage's in house engineer's years of experience is to compare.*

*We are not engineering experts, so we rely on the parties to provide expert evidence in support of the arguments they are putting forward. For the reasons I gave above, I don't find one party's evidence more persuasive than the other's. So, the evidence which is available to me, however much it is lacking in detail, is conflicting. And it is for this reason that I think an independent report is necessary. And as it is Advantage which is challenging Mr D's*

*estimate I think it should pay for an independent report. I appreciate that the car is no longer available for inspection, but an engineer can prepare a report based on other evidence available including estimates and photographs. Advantage may provide Mr D with three options for him to choose from and I think this would help prevent further disputes further down the line. And if Mr D isn't happy with the independent report he may obtain his own report from an expert with similar qualifications, but he would have to do this at his own expense.*

#### *The cash in lieu offer*

*Mr D said that Advantage should never have offered a cash in lieu settlement as an option and that this delayed him returning the car which cost him £550 for six months. I asked for the initial call where Mr D said he'd been offered the cash in lieu but Advantage said it was Mr D who asked for this in the first place. Advantage hasn't denied considering a cash in lieu settlement. But it said it was at its discretion and taken off the table after it received Mr D's estimate which it considered to have been exaggerated.*

*As our investigator said a cash in lieu settlement isn't included in the terms and conditions but it is an option which insurers sometimes use and this means it is standard industry practice. So, I don't think it was wrong that Mr D asked for one and I also don't think it is wrong that Advantage considered it to start with. But if Advantage believed the estimate was exaggerated, I think it was fair and reasonable that it no longer offered this option to Mr D and offered to help him obtain a further estimate or use one of its own repairers. And, bearing in mind that there is a very big difference between the estimate Mr D provided and the amount that was eventually deducted by the finance company when he returned the car, I think Advantage's response was not unreasonable. I also haven't seen anything which suggests that it rejected the estimate because it also insures the third party.*

*It follows that I don't think Advantage is responsible for reimbursing Mr D's extra finance payments. I also note that when Mr D returned the car the deduction to the value was less than one monthly payment. This suggests that he didn't minimise/mitigate his losses which is another reason why I don't think Advantage should be responsible for these extra payments.*

#### *How should the matter be settled*

*Advantage says that as Mr D no longer has the car it isn't fair for it to have to make a cash settlement as he is no longer able to get the car repaired. I have considered this argument, but I don't agree. Advantage has an obligation to indemnify Mr D under the policy. And I think it would be fair and reasonable, in these very specific circumstances, that it pays him what it would have had to pay under the policy.*

*Mr D said he returned the car and has provided evidence to show that £400 was deducted from the value. He says that this deduction was based on a "smart repair" which isn't an acceptable way of carrying out this repair within the industry. As I said above, we are not expert engineers and rely on the parties to provide evidence in support of their arguments. I don't dispute what Mr D has said, but I am also conscious of the fact that Advantage hasn't commented on this so I think it may wish to do so when it responds to this decision. Nevertheless, I don't expect that the parties will agree on this point which is why I think an independent assessor's opinion is necessary to break the deadlock.*

### Distress and inconvenience

*Mr D said Advantage should compensate him for the distress and inconvenience its handling of the claim caused him. As I said above, I don't think Advantage is responsible for Mr D's extra finance payments. But I do think it should pay him some compensation and I will explain why.*

*Mr D said that Advantage didn't tell him which parts of the estimate it considered had been exaggerated and never made him a counteroffer. I haven't seen anything in the evidence provided to me that contradicts this. I also asked Advantage to go through the estimate and highlight which parts it considers have been exaggerated and what it would have done instead. Advantage has provided some comments, but it hasn't gone through the estimate and it hasn't said what the repairs should have cost.*

*I appreciate Advantage offered Mr D its own repairer or help obtaining another estimate, but I think it should have also engaged more with Mr D and explained what it disagreed with. I think this would have avoided delays. Instead, Mr D still has an open claim on his record for an accident which wasn't his fault and for a claim which isn't complicated and which should have been resolved fairly swiftly. I can see why this lack of cooperation would have caused Mr D some frustration and I think Advantage should pay him £200 compensation for this."*

Mr D responded to the provisional decision and provided a copy of the second estimate he said he had sent to Advantage which it said it hadn't received. He reiterated that a "smart repair" isn't a recognised repair method and it is not used within the insurance industry as it is not recognised by manufacturers. He said the only reason he returned the car was due to the stress he was caused by his insurance claim. He added that he insured the car with another insurer who charged him an additional £200 for the claim even though the accident wasn't his fault. He didn't agree that he failed to mitigate his losses by not returning the car sooner and said this was because he didn't know what repair method would have been used and was also concerned about diminution. He said the £200 compensation I was considering awarding wasn't sufficient and thought Advantage should compensate him for the extra months that he kept the car.

Mr D said he agreed for Advantage to obtain an independent engineer's report but wants our service as well as himself to be included in all correspondence to ensure that the correct labour rates are being used.

In the meantime, our investigator shared Mr D's evidence regarding the "smart repair" which cost £400 with Advantage. Advantage responded to say that the repair costs provided by Mr D were inflated and that it wasn't obligated to provide a cash in lieu settlement. It disagreed that a "smart repair" isn't a recognised repair method and said it is used for repairing small areas of the vehicle without having to replace the whole panel. It offered Mr D £400 and said this was his only loss and that a cash in lieu payment for the full repairs would constitute betterment.

Our investigator put Advantage's offer to Mr D for his consideration. She also explained to the parties that we are not expert engineers and rely on the expert evidence provided to us. So far this evidence is conflicting which is why we believe an independent report is necessary.

Mr D didn't accept Advantage's offer. He said a "smart repair" is a repair which is carried out by mobile repairers and not in a paint booth which costs thousands of pounds. He questioned why Advantage would offer to have his car repaired at a body shop which would have used a paint booth if a "smart repair" was acceptable. He said in any event a "smart repair" wouldn't be appropriate as the bumper would have had to be removed to check if there is further damage.

In the meantime, Advantage obtained an independent engineer's report which said that a smart repair was recognised and accepted within the industry and considered the £400 deduction made by the finance company to be fair and reasonable for that type of repair method. Nevertheless, the report also gave an estimated repair cost of £1,701.97. I assumed this was based on a standard and not a smart repair. Advantage said that as Mr D's loss was £400 this is what it should be responsible for.

Mr D didn't agree with the report and said he should have been given a choice of three and if that had been the case, the company Advantage used would have been his last choice. He said, under normal circumstances, the engineer would have spoken to him and asked what he wanted and which repairer he would like to use. This didn't happen on this occasion.

### **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.

Things have progressed since I issued my provisional decision with Advantage obtaining a report from an independent engineer. Though I appreciate it wanted to progress matters, as I said in my provisional decision I thought it would have been a good idea to provide Mr D with three options of companies to choose from in order to avoid further disputes.

Having said the above, the engineers report isn't something I will be able to consider as part of this decision as it constitutes new information which wasn't available when the original complaint was brought to us. If Mr D isn't happy with the contents of this report he will have to raise a new complaint with Advantage. As I said in my provisional decision Mr D may also wish to obtain his own evidence from an independent engineer if he wishes to challenge the content of this report.

As I said in my provisional decision I think Advantage should pay the claim in line with the terms and conditions of the policy. And if it would have settled the claim based on the cost of a standard and not a smart repair then this is what it must do. I appreciate that Advantage and the independent engineer have both said that smart repairs are acceptable, but if this isn't the method which would have been used to repair Mr D's car, Advantage should settle the claim based on the costs of the repair method the repairers would have used instead. This may not necessarily be the same as what the finance company decided to deduct. The finance company may have different standards when it comes to the quality of repairs compared to the standards used within the insurance industry.

Mr D has raised some further points regarding his other losses but those have already been addressed in my provisional decision. Mr D said that he returned the car because he found the entire experience very stressful but also because he didn't know what method the

finance company was going to use and was concerned about diminution. I appreciate Mr D's concerns but I don't think they are directly linked to Advantage's actions. And I don't think Advantage's handling of the claim was so poor that it directly caused these additional losses for Mr D.

The above as well as the findings I made in my provisional decision now form the findings of this, my final decision.

### **My final decision**

For the reasons above, I have decided to uphold this complaint. Advantage Insurance Company Limited must obtain an independent engineer's report to provide an opinion on the likely cost of repairs to Mr D's car for the accident-related damage. Advantage Insurance Company Limited has now done this. It must thereafter pay the claim based on this estimate in line with the policy terms and conditions including any applicable excess and policy limit.

Advantage Insurance Company Limited must also pay Mr D £200 compensation for the distress and inconvenience its handling of the claim caused him.

Advantage Insurance Company Limited must pay the compensation within 28 days of the date on which we tell it Mr D accepts my final decision. If it pays later than this it must also pay interest on it from the deadline date for settlement to the date of payment at 8% a year simple.

If Advantage Insurance Company Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr D how much it's taken off. It should also give Mr D a tax deduction certificate if he asks for one so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 8 July 2025.

Anastasia Serdari  
**Ombudsman**