

The complaint

Mr R complains about Itc Complaine Limited (“ITC”) explaining his belief that their error when selling him his Guaranteed Asset Protection (“GAP”) insurance policy has resulted in him being unable to claim against it, following the total loss of his car.

What happened

The claim and complaint circumstances are well known to both parties. So, I don’t intend to list them chronologically in detail. But to summarise, Mr R purchased his car via a finance agreement in late 2021, deciding not to take out a GAP policy at that time. But in February 2022, Mr R returned to ITC to purchase a GAP policy, believing the policy would be effective from the date he purchased the policy, for a period of 36 months.

But in the months after purchasing the GAP policy, ITC applied to backdate it to the date he purchased the car itself, which was approved by the policy underwriter and its administrator.

This meant that in January 2025, when Mr R’s car was written off, his GAP policy had expired. So, he was unable to claim on his policy for the entitlement he expected. Mr R was unhappy about this and held ITC responsible, so he raised a complaint.

In summary, Mr R felt ITC had failed to make him aware the policy would, and had, been backdated. And he felt this was further supported by ITC providing him with policy documents in January 2025 that listed the inception date as February 2022, rather than December 2021. So, Mr R felt ITC should be responsible for covering the shortfall he was left with, considering the settlement made by his motor insurer was for less than his outstanding finance. In total, Mr R felt ITC should pay him the total value of the policy, which he deemed to be the value of his car when purchased.

ITC responded to the complaint and didn’t uphold it. They accepted they had provided Mr R with the incorrect, and outdated, documents in January 2025. But they were satisfied Mr R had been supplied with the correct documents in March and April 2022, sent by the policy administrator, after the GAP insurance policy had been backdated. And they felt this backdating was fair, as it took the policy back to the date he purchased the car. So, they didn’t offer to do anything more. Mr R remained unhappy with this response, so he referred his complaint to us.

Our investigator looked into the complaint and upheld it, over the course of two outcomes with the second superseding the first. Both parties have had sight of this outcome, so I won’t be recounting it in detail. But to summarise, our investigator set out why they felt ITC had failed to make Mr R reasonably aware of the backdating of his policy.

But they also set out why they felt, based on the balance of probability and the evidence supplied, that Mr R would most likely have continued with the policy had ITC made him aware of the backdating. So, they didn’t agree ITC should cover Mr R’s shortfall based on this point alone. However, they did recommend ITC pay Mr £250 to recognise the upset and confusion he would have felt when realising the policy had been backdated, and the impact this had, without being given reasonable awareness.

Both parties disagreed with this outcome. ITC maintained Mr R ought to have been reasonably aware the GAP policy would start from the vehicle purchase. So, they didn't agree they should compensate Mr R.

Mr R also disagreed, providing several reasons setting out why. These included, and are not limited to, Mr R's belief that ITC were legally not able to vary the contract without his awareness. He also raised concerns about the signature attached to the backdating form and set out his belief that as ITC sent him the original policy documents in January 2025, this reinforced his belief the policy was, and should have, been in place when he made a claim had ITC acted fairly and correctly. So, he maintained his position that ITC should cover his financial shortfall that has resulted by his GAP claim not being paid as he expected.

As both parties disagreed, the complaint has been passed to me for a decision.

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'm upholding the complaint for broadly the same reasons as the investigator. 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's affected what I think is the right outcome.

Before I explain why I've reached my decision, I want to set out what I've considered, and how. I want to be clear that my decision focuses solely on the complaint point raised by Mr R and addressed by ITC in their complaint response. Specifically, the sale of his policy and the backdating process. Any complaint Mr R has regarding the actual outcome of his GAP claim, or how the claim itself was handled, would need to be raised with either the policy underwriter, or administrator.

And when considering this complaint, I want to be clear that while our service will consider any applicable law, rules and regulations, we are an informal alternative to the courts. So, I won't be making any legal determinations, such as whether there has been a breach of contract. Instead, in line with our services informal approach, I have considered the actions of ITC when selling the policy, and engaging with Mr R again in January 2025, to decide whether I'm satisfied they acted fairly and reasonably. In this situation, I'm not persuaded they have, and I'll explain why.

It's not disputed that Mr R chose not to purchase a GAP insurance policy at the time he purchased his car. Instead, he returned to ITC to complete this purchase in February 2022, more than 30 days after the delivery of his car.

The policy pack Mr R received when purchasing the GAP policy explain *"You can only purchase this policy within 30 days of the date you take delivery of your vehicle."* And I must be clear this is a standard term and approach, regularly seen across the industry for policies of this nature.

So, with this in mind, ITC chose to allow Mr R to purchase the GAP policy but applied to backdate this back to the date his car was delivered. I don't find this action in itself to be unfair, as the point of the policy was to cover Mr R for any financial shortfall from the date his car purchased. And I'm satisfied that most other insurers offering this sort of policy would have taken the same action.

But crucially, I would expect ITC to make it clear to Mr R this is the action they would take

when the GAP policy was sold. And I've seen no evidence to show they did. Further to this, when the policy was backdated, with a new policy start date agreed, I would expect ITC to ensure Mr R was made reasonably aware of the change, considering its significance and its effect on the policy coverage. Again, I've seen no evidence to show ITC did so.

While I am satisfied Mr R received new policy documents in March and April 2022 which shows the new and updated policy start date, I'm not satisfied the communication within this documentation reasonably drew Mr R's attention to the change as I would expect. Nor am I satisfied ITC's argument that Mr R ought to have known a GAP policy would start from the car purchase date is reasonable, as he isn't the industry expert in this situation. That is ITC. And as the policy was sold on an advised basis, as shown in the "Demands and Needs" statement, the onus remained on ITC to provide the right advice at the right time. And I'm not persuaded they did.

Finally, when Mr R contacted ITC to request his GAP policy documents and report his accident, I would have expected ITC to ensure they provided Mr R with the correct, and up to date, documentation. Instead, they provided Mr R with policy documents that suggests the policy started on 3 February 2022, rather than the updated 28 December 2021. And this, alongside ITC's own emails, led Mr R to believe his claim would be accepted to the level he assumed. And ultimately, this didn't happen. So, I'm also satisfied ITC failed to manage Mr R's expectations, as I'd expect.

Because of all the above, I'm satisfied ITC have acted unfairly and unreasonably for the points I'm able to consider within this decision. So, I've then turned to what ITC should do to reasonably put things right.

Putting things right

When deciding what ITC should do to reasonably put things right, any award or direction I make is intended to place Mr R back in the position he would have been in, had ITC acted fairly in the first place.

In this situation, had ITC acted fairly, they would have made Mr R reasonably aware his policy would be backdated to the date he purchased the car. So, I've then thought about what is most likely to have happened, had this occurred. And when doing so, I've had to make my decision based on the balance of probability, drawing conclusions from the evidence available, in line with our services approach.

In this situation, I've seen a "Demands and Needs" document that satisfies me the policy, and its coverage, was one that Mr R wished to purchase. And that, had the backdating been made clear at this point, this would only have removed just over 30 days of cover from a three-year policy period. Considering this, and Mr R's clear wish for a policy of this kind, I'm satisfied Mr R would most likely have continued with the policy on the understanding the policy would run from 28 December 2021.

And even if I was to decide otherwise and suggest that Mr R would have chosen not to take the policy, considering he was already more than 30 days past receiving his car, I'm satisfied any alternative policy he would have found, if at all, would have most likely ran the same backdating exercise.

So, in both these situations, Mr R would ultimately have been left in the same position he found himself in, with a GAP policy with an initial period of cover that had expired. Because of this, I'm unable to say ITC should cover the financial shortfall Mr R says he's experienced due to the outcome of his GAP claim, considering this specific complaint point and argument he's raised.

But that's not to take away from the fact that Mr R wasn't fully aware that his policy had expired at the time of his accident. And this, combined with the fact ITC then provided Mr R with the incorrect documentation, would no doubt have failed to manage Mr R's expectations and made his frustration and unhappiness worse, when he discovered his policy didn't cover him as he'd expect.

So, I do think ITC should compensate Mr R for this. I note our investigator recommended ITC pay Mr R a compensatory amount of £250 to recognise the above. And having considered this recommendation, I'm satisfied it's a fair one that falls in line with our services approach and what I would have directed, had it not already been put forward.

I'm satisfied it is significant enough to recognise the distress and inconvenience Mr R has been caused by ITC's failure to manage Mr R's expectations through not making him reasonably aware of the backdating process his policy went through.

But I think it also fairly reflects my decision that ultimately, Mr R would always have been left in the same situation. And that, while Mr R disputes receiving them, I'm satisfied Mr R did receive documentation on two occasions which contained the right policy start date, albeit the change these documents contained wasn't made as clear as I would expect. So, this is a payment I'm directing ITC to make.

I understand this isn't the outcome Mr R was hoping for. And I want to reassure Mr R I've thought carefully about the points he has raised, and the impact this decision will have on him, considering his financial position even if I haven't commented on them directly.

While it isn't my role to comment on the actions of the underwriter, or speculate on the claim decision itself, I want to make it clear to Mr R that having read the policy terms and conditions, it appears he may be able to claim outside of the 36 month time period up to the level of his outstanding finance agreement, if he hasn't already. I will leave this up to Mr R to pursue, should he wish to do so. He would be entitled to return to our service with any new complaint points should they arise at a later date.

My final decision

For the reasons outlined above, I uphold Mr R's complaint about Itc Compliance Limited and I direct them to take the following action:

- Pay Mr R £250 to recognise the impact he's been caused by their failure to make him aware of the backdating process undertaken on his GAP policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 18 November 2025.

Josh Haskey
Ombudsman