

## The complaint

Mr R complains about how Advantage Insurance Company Limited (“Advantage”) took action in his name to recover monies it had paid out during a claim on his car insurance policy.

## What happened

Mr R had a car insurance policy with Advantage. He took out the policy through a broker.

He was involved in a collision in 2022, causing damage to his car. He contacted Advantage and made a claim. Advantage settled his claim. It assessed that Mr R wasn’t to blame for the collision and it set out to recover its costs from the third party and the third party’s insurance company (‘TPI’).

Advantage appointed a solicitor I’ll refer to as ‘K’ to take the legal action to do this. K contacted Mr R and introduced itself in late 2022.

In June 2025, K hadn’t recovered the money from the TPI and took the case to court. Mr R became aware of this and he complained to Advantage. He didn’t accept the case was to be made in his name, or that he’d given permission for the case to be taken to court. He was worried that he’d have a substantial personal exposure to costs in the case.

Advantage apologised that K had initiated the court case without his agreement or prior warning. It offered him £150 compensation for this error. But it said it was entitled to take the actions it did and it was hopeful that it could succeed in recovering its costs, which would mean that the claim was closed as ‘non-fault’ and ‘bonus allowed’ for Mr R.

It also confirmed to Mr R that it would pay all of the costs associated with the legal action.

Mr R wasn’t happy with Advantage’s response and he brought his complaint to this service. He complains about the misuse of his identity, the failure of Advantage to act in his interest, and its inadequate communication with him. He asks for:

- A full, clear, and formal statement from Hastings confirming that all proceedings in his name have been closed and that no further action will be taken against him.
- Substantial compensation for his distress and inconvenience, far exceeding the £150 initially offered.
- Confirmation of internal process changes to ensure that no other customer experiences similar misuse of identity or lack of consent in future claims.
- Confirmation in writing of K’s responsibility for submitting the Statement of Truth in his name.

Our investigator looked into his complaint and thought it wouldn’t be upheld. He thought Advantage had used its right of subrogation, which forms part of the policy terms, to recover the money it had paid out. He thought the amount of compensation it offered was fair.

Mr R didn’t agree with the view. He responded and said:

- He had withdrawn consent for proceedings to be made in his name.
- Advantage admitted fault due to process failings specifically about the Statement of Truth.
- The Solicitors Regulation Authority ('SRA') is investigating the matter against K and this service should consider the impact of this.
- "No actual loss" is not a valid basis to minimise compensation. He thinks this is contrary to established FOS principles on distress-based compensation.
- Advantage didn't supply its full file to this service so the view wasn't based on complete information.

Because he didn't agree, his complaint has been passed to me to make 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.

I need to start by saying that this is a complex complaint with several important points being raised by Mr R. It's very important he understands what I'm able to consider in this decision.

This service isn't Advantage's regulator, which is the Financial Conduct Authority (FCA). We have no powers to require an insurer to change its procedures or practices. Mr R has asked that Advantage changes its internal processes to protect other customers in future. This doesn't fall into our remit.

A substantial part of his complaint is about K, which is a solicitor. I can see Mr R's key concern here is about a Statement of Truth submitted to the court by K in his name. K doesn't sit within this service's jurisdiction and Mr R should read the information he was sent by K to understand its complaints procedures. I can see he's mentioned the SRA, which is K's regulator, and I presume he had already made an approach to it.

This service is an independent dispute resolution service. What I'm able to do is look at whether Advantage acted fairly and reasonably, and in line with its policy wording in the actions it took.

What this means is that I'm not going to deal with every point made by Mr R. I'd like to assure him that I have read the file of evidence I've been provided, even if I don't respond to it all here. This is in line with this service's informal approach.

I'm upholding Mr R's complaint, but I'm not going to require Advantage to pay additional compensation or take any other actions because I think the amount already offered by it is fair. I'll explain why I've made this decision.

I think the main parts of the policy wording that are relevant here include:

*"General conditions*

*Your insurer has the right to:*

*Take over and conduct the defence or settlement of any claim under the policy for its own benefit. This includes taking proceedings in your name, or in the name of any*

*other person claiming under the policy, at its own expense. Save in respect of the excess, your insurer has the right to retain sums recovered in full insofar as they reflect the diminution in value of the vehicle.*

*These actions may be taken in your name or the name of any insured person.”*

Mr R has agreed that the contractual right of subrogation isn't at dispute here, which is the legal principle being described above.

What the inclusion of this wording means is that Mr R consented to Advantage's subrogation rights when he took out the policy. This type of wording is common in the industry and I think it's fair.

It's his concern that he explicitly withdrew consent for this process to take place. I note that Mr R told Advantage about this, but I can't see that it consented.

He withdrew his consent when he found out about the case being taken to court by K.

Under the policy wording, Advantage has the ability under the wording to handle claims as it wishes, even if Mr R disagrees:

*“Your insurer is Advantage insurance Company Limited;*

*ii) we are entitled to process your claim in its entirety as well as conduct the defence or settlement of any claim and/or admit negligence for any accident or claim on your behalf.”*

And

*“When claiming under this policy*

*You must co-operate fully and in a way so as not to compromise the resolution of your claim.*

*Examples may include providing information critical to the investigation and settlement of the claim, providing evidence and attending court.*

*When defending or settling a claim, your insurer is entitled to instruct the solicitors of their choice to act for you in any proceedings.”*

Again, this wording is commonplace in the marketplace and I think it's fair. I note that the contractual right is also a right in common law.

So, I don't think I can say that Mr R's withdrawal of consent is reasonable. Advantage explained this to him when he complained. It said that:

*“the damage was suffered by you, not us. As we are not the owner or legal custodian of your vehicle, we cannot be named as the claimant. Under subrogation, we are entitled to bring the claim in your name to recover costs, but we do not take ownership of the claim.”*

I think its explanation is fair.

I also need to say that the claim was settled in summer 2025. It was recorded as non-fault for Mr R, with bonus allowed. What this would likely mean is that Advantage was able to recover its expenditure from the TPI. In turn, I think that's a useful benefit for Mr R as it

maintains his No Claims Discount (NCD).

The alternative for Advantage would have been to stop the subrogation process, which would have been a choice it had when Mr R withdrew his consent for the case to be brought in his name. The consequence for Mr R would have been that Advantage would not have been able to recover its outlay, which means the claim would fairly have been recorded as 'fault' for him, and his NCD would have been reduced in line with the policy terms.

I think it's fair I say this may have had a substantial impact on Mr R's renewal terms and affected his policy pricing. I feel I can also comment that, if Mr R brought a complaint to this service about this 'fault' determination and it was found that he'd withdrawn consent for the subrogation action, I think it likely that his complaint would not be upheld.

What this means is that I think Advantage acted fairly, reasonably and in line with the policy terms when it took action against the TPI in the way that it did. I think it's explained to Mr R the reasons why it needed to carry out the action in his name, and this is backed up by the policy terms.

In his approach to this service Mr R has asked for a number of things to happen to resolve his claim and complaint. As I've said above, a substantial portion of his complaint relates to the actions of K.

Of the remainder, he asked that Advantage confirmed that proceedings in his name had closed. I would expect that this request has been overtaken by events by now, but I don't think it's unreasonable and I'd ask that Advantage reviews its file and verifies this to Mr R. He also said he wanted it confirmed that "...no further action was being taken against him." But this legal action was being taken in his name against the third party; it wasn't against him. Again, I think confirmation from Advantage that the file is closed would be a welcome request. I'm not going to make these two points part of my decision because they've not been included in the view – but I will ask that Advantage carries them out.

Mr R has also asked for substantially more compensation than he was offered by Advantage. I don't doubt that he was shocked and surprised by being told that a case was being made in his name in June 2025, but when he complained to Advantage I think it responded quickly. It provided assurance that costs would be dealt with by it, and it investigated what had happened swiftly.

I can see there were issues in how Advantage and K communicated and dealt with the situation, and I can see Advantage has apologised for it.

But it seems to me that Mr R's distress was relatively short, as he was reassured and the claim settled speedily in the end. I've considered this, and consulted this service's guidelines on compensation, and I think Advantage's offer of £150 is fair and reasonable in all the circumstances. From the information I have, Mr R hasn't accepted this amount and it hasn't been paid to him.

### **My final decision**

Advantage Insurance Company Limited has already made an offer to pay £150 to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that Advantage Insurance Company Limited should pay £150 to Mr R if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or

reject my decision before 2 March 2026.

Richard Sowden  
**Ombudsman**