

## **complaint**

Mr S complains that Advantage Insurance Company Limited settled a third party's claim against his car insurance policy when it shouldn't have.

References to Advantage include its agents and claim administrator.

## **background**

Advantage was contacted by a third party to make a claim against Mr S's policy. It was said Mr S had reversed his car into a parked vehicle and driven off.

Mr S denied involvement and Advantage denied liability on his behalf and closed the claim as no further contact had been received from the other party. But shortly after the third party started litigation and a witness statement and CCTV evidence showed a vehicle matching Mr S's at a place where he accepted he'd been at.

Advantage exercised its right under the policy to take over the claim and made a decision that it was unlikely it could defend the claim. This was because of a substantial amount of circumstantial evidence indicating Mr S's vehicle was involved.

Mr S was unhappy with this and that two people turned up at his house to do with the incident. Mr S thought Advantage must have improperly disclosed his personal information.

The investigator didn't think Advantage had done anything wrong. She explained the policy allowed Advantage to take over the claim and defend or settle it. And as the evidence available had changed it wasn't unreasonable that Advantage settled the matter having first defended it. The investigator didn't think there was anything that showed Advantage had shared Mr S's personal information. The information showed that when the claim was made to Advantage the other party gave Mr S's details. She thought the £50 compensation Advantage had paid for some minor administration and service issues was fair.

Mr S disagreed. He thought the investigator hadn't considered his evidence and had just supported Advantage. He felt Advantage had misled him about what would happen and he thinks we should wait for the Information Commissioner's (ICO) outcome about the personal information point.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding whether Advantage was entitled to settle the claim I note the policy, like every other motor insurance policy I've seen, allows Advantage to take over and conduct the defence or settlement of any claim. But I think in treating Mr S fairly Advantage needed to settle the claim fairly and by that I mean when it's more likely than not the claim against Mr S would succeed in court. This is because Advantage wouldn't want to risk all the costs and expenses in defending a claim that they're likely to lose in court. A prudent insured person is highly unlikely to risk their own money in such circumstances. I don't think it would be fair to expect Advantage to fund Mr S's defence where he's unlikely to be successful.

In making its decision Advantage took into account a number of pieces of evidence including a witness statement, CCTV evidence and Mr S's own acceptance that he was at the location. From the information available the police had Mr S's details and issued him a Notice of Intended Prosecution just two days after the collision. While it appears this didn't go ahead that doesn't mean Mr S's car wasn't involved. And the police also gave the other party Mr S's details by letter.

I think there were a number of pieces of information that taken together, as Advantage did, meant it was reasonable for Advantage to settle the claim when it did. I've taken into account Mr S's evidence that his vehicle had no damage but the evidence Advantage was presented with showed it was likely his vehicle had collided with the other vehicle and damage was caused. And because of this Advantage settled the claim, which I think was fair and reasonable in all the circumstances.

On the personal information point the information shows that other parties already had Mr S's name, registration and address. I've not seen anything that shows Advantage was the source but I have seen a police letter to the other party disclosing Mr S's details. I don't think Mr S has shown Advantage gave his information to other unnecessary parties. Although Mr S has taken a complaint to the ICO the crux of his case with us is that he's unhappy with the claim being settled. The ICO won't look at Advantage's decision to settle the claim. I've made a decision about that and so don't think it's necessary to wait for the ICO to investigate his case.

#### **my final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 November 2017.

Sean Hamilton  
**ombudsman**