

complaint

Mr Y complains about the way Advantage Insurance Company Limited has handled a claim on his motor insurance policy, in particular that it delayed dealing with the claim, accepted liability for claims without investigating them properly and failed to keep him updated.

background

In September 2016 Mr Y was involved in a collision on a motorway. He phoned Advantage to make a claim on his policy. His vehicle was written off and he received payment of the car's value.

The insurer for another car (which I'll call Car A) alleged that Mr Y had driven into the back of that car, shunting it into a third car (Car B). So three vehicles were said to be involved.

There was also a claim from the driver of a fourth car (Car C), who said that Mr Y's car had also hit them. The driver of Car C said only Mr Y's car and her car were involved in this collision.

Advantage started investigating the claims. In October 2016, Mr Y contacted Advantage to say he'd changed his address. He also gave the registration number of his new car, which he insured with Advantage.

There was no further contact with Mr Y until July 2017 when an accident investigator instructed by Advantage called him. Mr Y said he wouldn't give any information to the investigator as he didn't know who they were and hadn't been told by Advantage someone would be contacting him.

Eventually Advantage accepted liability for damage to the three other cars. Mr Y wasn't happy about this and complained. He said he was left with a fault claim recorded against him with a much higher value than it should have been.

In reply, Advantage said Mr Y accepted he had hit the car in front of him. That car had hit another car. And without any evidence to the contrary it said it was correct to settle the claims for both of those cars. But it accepted there had been some poor service – for example not telling him he would be contacted by the accident investigator, and problems getting through on the phone when he called. Advantage sent Mr Y compensation of £100 for this.

Mr Y wasn't happy with the response and complained to this service. Advantage explained that as well as the claims by Car A and Car B, it had received the claim from Car C, which Mr Y hadn't reported. Because of the complex circumstances of the claim it decided to instruct an accident investigator. But it didn't explain this to Mr Y and so he didn't reply to the investigator. In the end, it decided to settle the claim by Car C as it didn't have evidence to dispute that claim.

Court proceedings were issued against Mr Y by the driver of Car A. Advantage accepted if it had dealt with things more quickly these proceedings might not have been issued. But it instructed solicitors to deal with the proceedings to make sure no judgment was entered against Mr Y, and paid £100 compensation for this and two payments of £50 for further delays dealing with the claims. The total compensation was now £300.

Our investigator concluded that the claim relating to Car C hadn't been investigated properly. She said Advantage should remove any reference to that claim from the Claims and Underwriting Exchange (CUE) database, where information about the claims was recorded. She also felt there had been failings in the way Advantage had dealt with the claims and its communication with Mr Y. But she thought the compensation already paid was fair and didn't recommend any further payment.

Advantage said it accepted the investigator's view about what had happened but not about how to put things right – it didn't record each individual vehicle on CUE and so, regardless of the claim by Car C, the incident would still be recorded in the same way. This meant the impact on Mr Y was the same regardless (which is why it decided to settle all the claims).

Mr Y didn't agree with the investigator's view. He said he was shocked to learn about the claim by Car C as he wasn't even aware of this claim. He didn't think that car had been involved or that any claim relating to it should have been considered. He also said he couldn't understand why the claim was still open some two years after the accident and why Advantage was still failing to keep him updated about what was happening. He said there had been serious failings over a very long period and didn't think the compensation of £300 was enough to acknowledge what had happened.

Advantage offered a further payment of £50 for the additional delay in finalising the claim (which was still open at this point) and failing to update Mr Y on the costs being paid out on the claim.

Another investigator reviewed the complaint. She agreed that Advantage hadn't investigated the claim from Car C adequately and that there had been further delays and failure to update Mr Y. But she thought the compensation (now totalling £350) was fair. She thought the costs of the claim for Car C should be removed from CUE. And if Mr Y had any concerns about higher premiums being charged by another as a result of these claims, he could take that up with that insurer.

Mr Y agreed with the recommendation of Advantage reducing the costs of the claim on CUE. But, while he accepted this was a complex claim, he said it had been ongoing for over two years. And he was advised by Advantage's lawyers around July 2018 that the court issues had been settled, but the claim was still open and he hasn't been updated on the increasing costs in the months since. He also said the substantial amount of the claim would probably have affected the premium he pays to his current insurer. He asked why he should take this up with his current insurer, if it was caused by the way Advantage had dealt with these claims.

As no agreement was reached, the case was passed to me to make a final decision. Mr Y had raised a concern about his premiums now being higher as a result of how the claim had been settled and recorded - he said it's likely that a £20,000 claim would have less of an impact than a £35,000 claim. And he said he assumes his claim is still open and if he was to update his insurer with a new claim value, he'd be charged an amendment fee by the new insurer. So our investigator asked Mr Y if he could provide any evidence about this.

Mr Y provided comments from his insurer, confirming that claims is one rating factor on which the policy price is decided, and on policies where there are no claim or incidents the policy premium differs to those where there have been claims.

I issued a provisional decision on the complaint. In the provisional decision I said:

It's not for me to decide who was at fault for the accident; the policy terms allow Advantage to decide how to deal with a claim, including whether to admit liability concerning any event likely to give rise to a claim under the policy, and make a payment, instruct solicitors or contest any court proceedings. It doesn't need Mr Y's agreement. But just because these terms are in the policy, that doesn't mean Advantage can simply do as it pleases. I can consider how Advantage made its decisions and whether it dealt with the claims fairly and reasonably.

I agree there have been some failings in the way Advantage has handled the matter, particularly the claim from Car C. I'll explain why this is and what I think Advantage should do to put things right.

The accident was in September 2016 but the claims were still open some two years later. It was a complex matter, with three claims and conflicting information about the incident; it still isn't entirely clear exactly what happened. So I can see why investigations would take some time. But I don't think the investigation into the claim concerning Car C was dealt with fairly, for the same reasons as those given by our investigators. And I note Advantage has to some extent accepted this.

Where there is a dispute, is about the consequences of this. Our investigator pointed out that there was no contact with Mr Y between October 2016 and October 2017, but during that time Advantage was talking to the other insurers and accepted liability for the claim from Car C. It didn't contact Mr Y about that claim at all or give him the chance to contest the allegations made.

Advantage can't explain why it didn't contact Mr Y but says this has made no difference to the outcome. Based on the evidence, it says Mr Y would be liable for at least some of the damage; even if it had investigated further it doesn't think the position would be any clearer; and as a fault claim would be recorded in any event, it makes no difference to Mr Y what the details are. That's true up to a point. CUE will record the claim. And I can't tell Advantage to amend that record – the overall amount recorded on CUE must reflect what the insurer has paid out on the claim. If, however, the value recorded is higher than it should be due to the extra costs from Car C, that could affect Mr Y.

Not all insurers use CUE for pricing, so it could be that the claim payment showing as higher makes no difference to premiums he will have to pay. And, even if an insurer does use CUE for pricing, it's unlikely a small increase in the cost of the claim would make a difference. But in this case, the value recorded as a result of the claim relating to Car C is more substantial. So I've considered what difference this might make.

Mr Y has provided information from his current insurer which confirms that claims is one rating factor it uses. But all it has said is that premiums will differ between cases where there have been claims and those with no claims. So although Mr Y's premium is likely to be higher as a result of having made a claim, there's no evidence to confirm that the size of the claim has affected the premium he's currently paying.

It might make a difference in future – he will have to disclose the claim for potentially up to five years. And other insurers may use the value recorded as a factor when deciding what premium to charge. So there's a potential impact but I can't say at the moment what that might be.

Finally, Mr Y says the compensation already paid – £350 – isn't enough to acknowledge all the distress he's suffered and the trouble he's been put to. I've thought about this carefully and I don't think it's enough.

The way the claim has been handled has led to distress for Mr Y over a lengthy period of time – it's now well over two years since the accident. It was a complicated claim and would have taken some time to investigate in any event. But there have been some delays and Mr Y wasn't always kept informed. He's had to raise several complaints. He's had court proceedings issued against him, with the extra worry that would cause. And after two years he discovered Advantage had settled a claim that he wasn't even aware of, and had no chance to comment on at all. In addition, there is the possibility that Mr Y may pay higher premiums as a result of the higher value recorded on CUE.

Taking all of these factors into account, in my judgment a payment of £600 would be fair to reflect the distress and inconvenience caused to Mr Y.

I understand the compensation payments totalling £350 have already been paid to Mr Y, in which case a further payment of £250 should be made.

developments

Both parties replied to the provisional decision. Advantage had no further comments to add, but Mr Y has made some further comments.

He says:

- He can't agree that as Advantage doesn't record each individual vehicle on CUE, the impact on him is the same – the total value of the claim does impact future premiums and settling the claim by Car C increased the total value.
- There wasn't enough for Advantage to settle the claim by Car C, when the evidence contradicted the declarations of the other drivers involved. This is a grave error of judgement by Advantage.
- He doesn't agree a fair outcome has been reached when a company the size of Advantage is only being asked to compensate £600 despite clear proven failings.
- As far as he's aware the claim is still open and Advantage is still failing to provide updates; he's received nothing since he contacted them to seek the claim value back in September 2018, which is a reflection of how poorly this has been handled.

my findings

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 see no reason to change my provisional decision.

I appreciate that this whole matter has been distressing for Mr Y. It's not really disputed there have been failings by Advantage. The key issue for me is how to put things right.

Mr Y says the amount of compensation isn't much for a company the size of Advantage, and he thinks it should have to pay more to reflect the errors it made. It's not for me to punish a business. The focus for me in deciding on a remedy is not so much what went wrong, but what impact it had on Mr Y.

I set out in the provisional decision why I thought £600 was fair compensation for the distress and inconvenience caused to him. I've considered his further comments but in my judgment these don't add to the points I considered in my provision decision. Mr Y has referred to the impact on premiums he will pay in future. As I explained in my provisional decision, he may have higher premiums in future, but it isn't possible to say what the difference might be. And I took that into account when considering a fair payment for compensation. It's still my view that £600 is a fair amount to compensate Mr Y.

my final decision

My final decision is that I partly uphold the complaint and direct Advantage Insurance Company Limited to make a further payment to Mr Y of £250, to bring the total compensation for distress and inconvenience to £600.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 22 June 2019.

Peter Whiteley
ombudsman

* 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 Y how much it's taken off. It should also give Mr Y a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate