

complaint

Miss H complains that Advantage Insurance Company Limited mishandled her claim on a motor insurance policy.

background

Miss H agreed to buy a brand new car. Its cash price was about £14,400. She took out a conditional sale agreement with a finance company. She insured the car with Advantage. She also took guaranteed asset protection (GAP) insurance from another insurer. Six months later the car was damaged beyond repair in a fire. Her Advantage policy included a “new vehicle” clause but Advantage says it could not source an appropriate new vehicle. Miss H hired a vehicle for about a month until she bought a second-hand vehicle. Advantage offered to pay Miss H’s GAP insurer £11,200. Advantage also offered Miss H £50 for shortcomings in its service.

The adjudicator recommended that the complaint should be upheld. She concluded that an exact replacement vehicle had been available. She said that £50 was not adequate for the poor service. She recommended that Advantage should pay Miss H:

1. £3,100 for the difference between £11,200 and the cost of an identical new car;
2. £447.61 for the hire costs;
3. £500 for poor service.

Advantage disagrees with the adjudicator’s opinion. It says that – in the two months following the loss – the vehicle manufacturer and another supplier told it that an exact replacement was no longer available. The policy did not include a courtesy vehicle, it says. In addition to its offer of £50 it offered a further £100 for shortcomings in the service provided.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Miss H’s policy with Advantage included the following term:

*“If **your car** is a total loss, your **insurer** will (if **you** and any other interested parties agree) replace it with a new car of the same, make, model and specification as long as:*

- ***You** have owned **your car** since it was first registered as new; and:*
- *within one year of it being registered as new, **your car** suffers damage where the cost of repair is estimated by your **insurer** to be more than 60% of the current list price (including taxes) of **your car** at the time of the damage; and*
- ***your car’s** recorded mileage at the time of the loss is not more than 12,000 miles; and*

- ***your car*** is not an import and was sourced and supplied as new in the United Kingdom; and
- the replacement car is available in the United Kingdom within 6 weeks from the time of the loss.

*If a car of the same make, model and specification is not available, the most your insurer will pay is the **market value** of **your car** at the time of loss or damage.*

*If you are still paying for **your car** under a hire purchase or leasing agreement your insurer will pay a claim for the total loss of **your car** to the hire purchase or leasing company."*

I am satisfied that Miss H met the criteria for Advantage to supply a new car. In particular, the manufacturer sent the following email to the adjudicator:

*"Thank you for your email received on 10 July 2014, with regards to ... registration number ...
I can confirm, this vehicle was available in October 2013 and the above vehicle corresponds to the [model] as outlined the price guide attached."*

From what the manufacturer said, I find that a vehicle the same as the one Miss H lost was available – within six weeks after the loss - for £14,300. Therefore Advantage should have supplied one.

From its file I note that Advantage did not enquire about the availability of a new replacement vehicle until after the six-week period had expired. It knew that Miss H owed the finance company about £11,400. Advantage offered to pay the GAP insurer £11,200. But the file indicates that it actually made only an interim payment of about £8,765.

I accept that – nearly eighteen months after the loss it is no longer possible to get an exact replacement. So I look for another way to make up the difference between the position Advantage left Miss H in and the position as it should have been.

I conclude that it is fair and reasonable for Advantage to pay £14,300. I bear in mind its offer to pay £11,200 to the GAP insurer – and its interim payment of about £8,765. So I will order that – in addition to honouring the balance of that offer – Advantage shall pay Miss H £3,100.

I consider that Advantage should have supplied Miss H with a new car within about six weeks. Instead, she had to buy a second-hand one. I have seen evidence of her payment of £3,750. I do not conclude that it is appropriate to order Advantage to pay that amount in addition to the £14,300. But overall I do consider it fair and reasonable to order it to pay the hire costs, for which I have seen an invoice of £447.61.

I do not doubt that – in addition to the financial costs – Advantage caused Miss H significant upset and worry and put her to some trouble. I consider that Advantage has prolonged this and made it worse by its response to the adjudicator's opinion. Overall I think £500 is a fair amount of compensation for distress and inconvenience.

my final decision

For the reasons I have explained, my final decision is that I uphold this complaint. I order Advantage Insurance Company Limited (in addition to honouring the balance of its offer to her GAP insurer) to pay Miss H:

1. £3,100;
2. £447.61.
3. simple interest on each of those amounts at an annual rate of 8% from 30 November 2013 to the date it pays her. If it considers it has to deduct tax from the interest element of my award, it shall send Miss H a tax deduction certificate when it pays her. She can then use that certificate to try to reclaim the tax, if she is entitled to do so;
4. £500 for distress and inconvenience (less £50 if Miss H has already cashed its cheque in that amount).

Under the rules of the Financial Ombudsman Service, I am required to ask Miss H to accept or reject my decision before 14 May 2015.

Christopher Gilbert
ombudsman