

## The complaint

Mr S complains about Advantage Insurance Company Limited (“AIC”) and the information they provided regarding the extent of his policy cover at renewal. Mr S also complains about AIC’s decision to settle his claim on an at fault basis, without requesting dashcam footage he had available.

## What happened

The circumstances of the claim and complaint are well known to both parties. So, I don’t intend to list the events chronologically in detail. But to summarise, Mr S renewed his motor insurance policy, underwritten by AIC, in September 2022. He confirmed this renewal on a call with the policy administrator, who I’ll refer to as “H”. As H were administrating the policy on behalf of AIC, H were acting as AIC’s agent. So, for ease of reference, I will refer to any actions taken by H as if they were taken by AIC throughout the decision.

On this call, Mr S felt he was led to believe if the car was deemed a total loss, he would receive the agreed value he declared, rather than market value as per usual insurance terms. But Mr S later found out this wasn’t the case. So, he complained about this. And at the same time, Mr S complained about AIC’s decision to settle a claim made against his insurance policy in the summer of 2023 on a fault basis, without obtaining dashcam footage from him. So, he wanted to be compensated for the above.

AIC responded to the complaint and didn’t uphold it. They thought their decision to settle the claim on a fault basis, without the dashcam footage, was a fair one based on the testimony Mr S and the third-party provided regarding the circumstances of the accident. And they thought Mr S’ policy terms made it clear that, if his car was deemed a total loss, he would be paid the market value for his car, and not the agreed value. So, while they accepted their may have been some miscommunication on the call in question, they didn’t think they needed to do anything more. Mr S remained unhappy with this response and so, he referred his complaint to us.

Our investigator looked into the complaint and upheld it. They didn’t think they could say AIC had acted unfairly when settling the claim as they did, considering the accident circumstances. But they did think Mr S had been mis-advised on the renewal call. And, while they recognised Mr S had a duty to understand the terms of the policy he’d purchased, they did think Mr S should be compensated for the confusion caused. So, they recommended AIC pay Mr S £100 to fairly recognise this, considering his car hadn’t been deemed a total loss and so, he hadn’t been impacted financially by this.

AIC didn’t agree, explaining why they thought Mr S was already aware the policy didn’t pay an agreed value for a car deemed a total loss. And Mr S didn’t agree, explaining why he didn’t think the £100 was enough to address his belief he’d paid a higher premium for the policy than he should’ve, and the fact he felt he was mis-advised several times on the same call. As neither party agreed, 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. As there are two clear complaint points that relate to entirely different issues, I will address them separately to ensure they're address clearly, and fully.

First, I've considered AIC's decision to settle Mr S' claim on a fault basis, without requesting the dashcam footage he had available. I recognise Mr S' testimony, and why he thinks this dashcam footage may have altered the liability of the claim, which in turn would impact his future premiums as he wouldn't have a fault claim recorded against him.

But I've considered AIC's rationale for settling the claim as they did, without the dashcam footage. And I think their reasoning is fair, considering the testimony provided by both Mr S and the third-party about the accident circumstances, where it is agreed Mr S hit the third-party when moving lanes. As Mr S was the party moving lanes into a lane that the third-party was already established, on this occasion I can understand why AIC didn't feel the need to request the dashcam footage, as I do think this was unlikely to have changed the liability of the claim.

And within the terms of the policy Mr S held, it states clearly that *"If they feel it's appropriate, your insurer will be entitled to admit liability, for the costs covered under this policy on behalf of you or any person claiming indemnity under this policy"*. So, I do think AIC were able to admit liability, without Mr S' agreement. And in this case, I think they were fair to do so, as based on the information available to them I think any other insurer is likely to have taken the same decision in the same situation. So, I don't think AIC need to do anything more for this aspect of the complaint.

I've then turned to Mr S complaint about the advice he was provided on the renewal call in September 2022. I've listened to the call at length. And while I appreciate AIC's view that Mr S initially began the call with a question giving the impression he thought AIC wouldn't be able to provide an agreed value policy, I do think the advice AIC provided following this question was mis-leading. AIC allowed Mr S to set the declared value of the car at a higher amount to the value used in his previous policy year. And after placing Mr S on hold to obtain a new policy premium, when the handler returned to the call they stated explicitly that an agreed value would be paid should his car be deemed a total loss. I don't think it's in dispute that this information was materially incorrect and so, I do think this failed to manage Mr S' expectations.

But I must also take into consideration the fact the policy was sold initially on a non-advised basis. So, whatever information was given to Mr S on this call, I do think there was still an expectation for Mr S to read and understand the terms of his policy for the new policy year. And I do think these terms make it clear that market value would be paid, should his car be deemed a total loss. So, I don't think I can say the policy was mis-sold.

But that doesn't detract from the fact AIC did provide incorrect information on more than one occasion in the call. So, I do still think AIC acted unfairly here and because of this, I've then turned to what I think they should do to put things right.

## **Putting things right**

Any award or direction I make is intended to place Mr S back in the position he would've been in, had AIC acted fairly in the first place.

In this situation, had AIC acted fairly, I think they would've made it clearer that they didn't offer Agreed Value policies and that the policy would only ever pay market value for his car. So, I've thought about what I think would most likely have happened, had AIC done so, based on the information available to me, on the balance of probability.

I have no way of knowing for certain if Mr S would've chosen to take out another policy had this information been provided. But what I do know is, within the renewal call, Mr S confirmed he'd found alternative policies he was considering with the lowest price being quoted at £553. And AIC took this into consideration, reducing Mr S' renewal premium to £552.99 to match this. So, even if Mr S had chosen to take a policy with another insurer, I don't think Mr S would've been financially better off and so, I don't think I can say there has been a financial loss to Mr S here.

And while I recognise Mr S would've only received the market value had his car be deemed a total loss, it's crucial to note that fortunately, Mr S' car wasn't damaged in a way that led to a total loss being necessary. So, Mr S wasn't financially adversely affected by the fact his policy would only have paid out at market value, when he was under the impression it would be the agreed value he declared. So again, I can't say there is a financial loss here.

And, as Mr S' car was on risk for the policy year, and there was a claim from a third-party that AIC had to cover, I think he received the cover he paid for when paying his premium of £529.99. So, I don't think this premium should be refunded, or reduced.

But I do think AIC failed to manage Mr S' expectations. And I don't doubt the confusion and frustration Mr S would've felt when he discovered at his renewal in 2023 that he'd held a policy for a year that provided a different level of cover to what he thought was in place. And I do think he should be compensated for this distress.

Our investigator recommended AIC pay £100 to recognise this appropriately. And I think this payment is a fair one, that falls in line with our service's approach and what I would've directed, had it not already been put forward. I think it fairly recognises the impact I've outlined in the decision above, whilst also taking into consideration the fact that Mr S didn't need to utilise the policy for a total loss of his own car and so, there was no financial impact caused to him directly. So, this payment is one I'm directing AIC to pay.

## **My final decision**

For the reasons outlined above, I uphold Mr S' complaint about Advantage Insurance Company Limited and I direct them to take the following action:

- Pay Mr S £100 to recognise the incorrect information they provided on the renewal call in September 2022.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 March 2024.

Josh Haskey  
**Ombudsman**