DRN-3681694

The complaint

Mr R has complained about the amount Haven Insurance Company Limited paid in settlement of a claim he made under his commercial motor insurance policy.

What happened

The details of this complaint are well known to both parties, so I will not repeat them again in full detail here. But to briefly summarise Mr R is unhappy with the valuation placed on his van following a total loss claim under his policy.

Haven says the amount paid is the limit of cover under the policy, so no further amount is due.

Our investigator thought the complaint should be upheld. She didn't think it was fair for Haven to restrict the settlement to the limit of cover, because this was based on an estimate provided by Mr R – who isn't a motor valuation expert. She thought Haven should pay £33,296, which was based on the average market value stated by two of the recognised motor industry trade guides.

Haven didn't respond to our investigator's opinion. So as no agreement has been reached, the complaint has been passed to me to decide.

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 agree with the conclusions reached by our investigator. I'll explain why.

Mr R's policy explains the cover provided under Section B2, which is the section covering loss or damage to the vehicle other than by fire or theft:

> *"We will cover You in respect of loss of or damage to Your Vehicle which occurs during the Period of Insurance caused by accidental or malicious means up to the Limit of Coverage specified in the Schedule and subject to the applicable Excess(es)."*

Under the provisions applicable to B2 it explains what happens when a vehicle is deemed beyond economical repair:

> *"7.If We consider Your Vehicle is Beyond Economic Repair as a result of an accident or incident covered by this insurance, subject to clause 9 below We will provide the owner of Your Vehicle with settlement of its Market Value up to the Limit of Coverage after deducting the Excess. You should be aware that We are entitled to provide settlement up to the Limit of Coverage after deducting the applicable Excess(es) in full and final settlement of Your claim for damage to Your Vehicle, even if that value is under-stated. Our obligation to repair Your Vehicle shall be limited to the cost calculated by applying the proportion that the value of the repair service that We are to provide bears to the Market Value of Your Vehicle up to the Limit of Coverage less the applicable Excess(es)."*

The limit of cover is set out in the policy as, *"The value shown in the schedule".* And the value shown on Mr R's schedule is £30,000.

Market value is defined in the policy as,

> *"Market Value*
> *The cost of replacing Your Vehicle with one of similar make, model and specification, taking into account the age, mileage and condition of Your Vehicle. To determine the Market Value, we will typically request the advice of an engineer and refer to guides and any other relevant sources."*

Haven initially deemed the market value of Mr R's van to be £30,464.50. But it later increased this to £31,100 – the policy limit plus the excess. But looking at the trade guides I find a better reflection of the market value of Mr R's van is £33,296. This is the average of two of the three guides we typically use when assessing market value. The value returned by the third guide was significantly out of range of the other two, so I consider it reasonable to discount that valuation and instead rely on the remaining two, the range of which was £31,592 – £35,000.

Although written into the policy terms, I don't consider that limiting the value of Mr R's settlement to the amount shown on his schedule leads to a fair answer. I say this because the amount shown was an *estimate* Mr R gave based on what he thought the value of his van likely was. But I haven't seen anything to show that Haven explained the importance of this estimate, or that it would be used to set a limit of coverage.

This is a market value policy, not an agreed value policy and applying this term only benefits Haven, not Mr R. I say this because where the market value of Mr R's van is above the *estimated* value shown on the schedule, the term means Haven only need pay the lower amount. But if the market value had been below that stated on the schedule, again, Haven would only need pay the lower amount. I don't consider that this delivers a fair or reasonable outcome for Mr R.

I also haven't seen anything to suggest that Haven would have charged a higher premium had Mr R estimated the value as £33,296 instead of £30,000. So, I can't see that Haven has been prejudiced by Mr R's low estimate of the value of his van.

So, taking all of the above into account, I don't think Haven has treated Mr R fairly and therefore I'm upholding his complaint.

Putting things right

Haven Insurance Company Limited should settle Mr R's claim based on the market value of his van. I consider £33,296 to be a fair reflection of the market value. Haven is able to deduct the policy excess from this amount, but it can't apply the policy limit set out in the schedule.

Haven paid the initial settlement directly to Mr R's finance company, which is in line with the policy terms. Should an outstanding amount remain on the finance, Haven can pay any additional settlement directly to the finance company again. But should any additional amount be owed to Mr R, I think Haven should add 8% simple interest to that amount from the date it paid the first settlement payment to the date it settles the claim in line with this decision. This is to compensate Mr R for being deprived of the use of that money for other purposes.

My final decision

For the reasons I've explained above, I uphold Mr R's complaint.

Haven Insurance Company Limited must:

- Settle Mr R's claim based on the market value of his van being £33,296. It can deduct the policy excess from this amount, but it can't apply the policy limit set out in the schedule.

- Should an outstanding amount remain on the finance, Haven can pay any additional settlement directly to the finance company. But if any additional amount is owed to Mr R, 8% simple interest* should be added to the payment Haven makes to Mr R. This interest should be calculated from the date it paid the first settlement payment to the date it settles the claim as outlined in this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 31 October 2022.

**If Haven Insurance Company Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr R how much it's taken off. It should also give Mr R a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.*

Adam Golding
Ombudsman