

The complaint

Mr C and his mother Mrs G complain that Highway Insurance Company Limited said it would hold Mr C at fault if he made a claim on his motor insurance policy following an accident. They want Highway to record the claim as non-fault or cover it under the uninsured driver promise. Mrs G is a named driver on Mr C's policy.

What happened

Mr C's car was damaged by another driver fleeing the police at high speed. Neither Mr C nor the police were able to record the car's registration number. Mr C notified Highway about the incident and asked about making a claim.

He was told that as the other driver hadn't been identified, then Highway wouldn't be able to recover its outlay. So the claim would be recorded as fault, Mr C would have to pay his £600 policy excess and his No Claims Discount (NCD) would be affected. Highway said the uninsured driver promise didn't apply as the other car and its driver hadn't been identified.

Mr C thought this was unfair, and he said he couldn't afford to pay the excess. Highway said Mr C may be able to recover this from the Motor Insurer's Board (MIB). It said it was awaiting the police report and it may be able to reconsider Mr C's claim if the other driver's details were recorded.

Our Investigator didn't recommend that the complaint should be upheld. She thought Highway had explained Mr C's options clearly and correctly in keeping with the policy's terms and conditions. She couldn't say it had acted unfairly or unreasonably. And so she didn't think it needed to do anything further.

Mrs G replied that the complaint wasn't about the policy's terms and conditions but about the unfair outcome for Mr C. She thought he was being penalised for no fault of his own. She thought Highway should deal with the claim under the uninsured driver promise.

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.

I can understand that Mr C and Mrs G feel frustrated and disappointed by Highway's decision. I think it is accepted that Mr C was clearly not to blame for the very unfortunate accident. But, if he makes a claim and the other driver's details aren't forthcoming, then there will be serious financial consequences for him.

Mrs G thought we should ask Highway to consider the matter compassionately. But it's not our role to instruct an insurer about how to process a claim. Our approach in cases like this is to consider whether the insurer's acted in line with the terms and conditions of the policy and fairly and reasonably.

I can see that Highway is still awaiting the police report. It has told Mrs G that if this identifies the other car or driver then it may be able to reconsider how the claim is dealt with. But, in the meantime, if Mr C were to make a claim on his policy then the policy excess would be

due, the claim would be recorded as fault as Highway wouldn't be able to recover its outlay and Mr C's NCD would be affected.

I'm satisfied that this is in keeping with the policy's terms and conditions and standard industry practice. And I can't say it's unfair or reasonable as I think Highway hasn't treated Mr C any differently than other consumers.

Mrs G thought Highway should apply the uninsured driver promise. But I don't think this applies in Mr C's current circumstances as the policy states:

"If you are hit by an uninsured driver we will reinstate your no claim discount and reimburse any excess once we have established that the driver of the other vehicle was uninsured and the accident was not your fault. We will need you to provide the registration number, make, model and colour of the other car involved and also the driver's name and address if possible."

I think Highway has reasonably advised Mrs G that it would reconsider how it deals with the claim if information about the other driver is provided by the police report.

Mr C said he was unable to pay the £600 policy excess applicable if he were to make a claim for repairs. But I think Highway has reasonably advised him that this may be recoverable from the MIB as an uninsured loss under the Untraced Drivers Agreement. But, without further information about the other driver, then Mr C's driving record and NCD would still be affected.

In summary, I sympathise with Mr C's position and the effect this unfortunate incident will have on him as a young driver. But I'm satisfied that Highway has advised him correctly about his potential claim in keeping with the policy's terms and conditions and fairly and reasonably.

My final decision

For the reasons given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs G to accept or reject my decision before 7 November 2022.

Phillip Berechree
Ombudsman