

The complaint

X has complained about the settlement Haven Insurance Company Limited (Haven) has offered following a claim he made on his commercial vehicle policy.

What happened

X was involved in an incident with a third party, and he submitted a claim on his commercial vehicle policy for repairs. But an issue arose during the repair process, where X's vehicle was left outside unrepaired and exposed to the elements. During this time the vehicle suffered water ingress, and X complained.

After a long and protracted discussion between both parties, Haven agreed to deal with the claim as a constructive total loss. Haven valued the vehicle at £37,970. But X said this valuation was too low. So, Haven said X should bring the complaint to this service. It said that if this service thought the valuation was too low it would pay the difference between £37,970 and the valuation this service placed on the vehicle. Haven also said it then would sell the vehicle, and if it fetched a higher value, it would also pay X the difference.

So, X submitted a complaint to this service to find a fair valuation. Haven, subsequently paid X £37,970 as an interim payment. But X refused to pass over the documentation or spare key to Haven as he says he wants the valuation resolved first. Haven say this has made things very difficult, as it can't sell the vehicle, which would help provide clarity on its value.

An investigator reviewed the complaint. The investigator has suggested that £46,000 (excl VAT) is a fair valuation for this vehicle. But Haven doesn't agree. It says:

1. £46,000 is too high and not a reflection of the market value for this vehicle as per the trade guides.
2. It should never have agreed to pay a constructive total loss as it doesn't feel that the original argument about the invalidated warranties now stands up to scrutiny.

The complaint is now with me for a final 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 this complaint. I'll explain why.

Before I start, I want to set out clearly what I will be dealing with in this final decision.

The final response submitted with this complaint sets out the two options that Haven made available to X. The options were:

1. The vehicle repaired using correct repair methods, and returned to X
or

2. Accept an offer of a constructive total loss where X receives the pre-accident value (as per the conditions set out above) of the vehicle upon receipt of its V5, proof of purchase and finance settlement figure. Once Haven sells the vehicle, any overpayment on the valuation will be paid to X.

When our investigator spoke to X, he confirmed that his complaint was solely about the valuation Haven has placed on his vehicle. I note that Haven has made an interim payment to X and I also note that he's refusing to handover any documentation until the valuation is clarified. It's very clear that in getting to this point a number of other issues arose. And I note that in response to the investigator's view, Haven have reintroduced some previous issues such as the alleged invalidated warranty.

But I will not be dealing with these issues in this final decision. The complaint about the valuation has been front and centre throughout this whole complaint process. Haven has now revisited the warranty validation scenario with supporting evidence. And whereas I appreciate Haven's efforts to bring this issue to a close, I can't now start to investigate a part of the complaint, that had fallen away months ago. I can see how it forms part of what happened. But Haven had months to obtain its supporting evidence but didn't do so. So, we'll move onto placing a fair value on this vehicle so Haven can complete its offer of a constructive total loss.

Haven agreed to pay for this claim as a constructive total loss. As such, under the terms of the policy it will pay the market value. This is defined as *"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"*

Our approach to vehicle valuations is set out here <https://www.financial-ombudsman.org.uk/consumers/complaints-can-help/insurance/motor-insurance/vehicle-valuations-write-offs>. We use the trade guides to guide us. But as per the market value term in Haven's policy, we will also consider information from other relevant sources. Using this approach our investigator has suggested that £46,000 (excl VAT) is a fair valuation for this vehicle.

Haven initially agreed. But then Haven suggested that one of the valuations we'd used was an outlier, and it reiterated that its own valuation of £37,970 is actually closer to the true market value of this vehicle, as per the trade guides.

Our approach is set out so we can arrive at a fair value using the data from the trade guides alongside all other evidence. We utilise as many trade guides as we can and use the values provided. If the values vary greatly, we might think it's reasonable to ignore any outlying valuation. But the key is that we use an approach that feels fair. So, if there's varying valuations presented, we don't just look at the guides and decide. We'd look at everything that's been provided on the file, engineers comments, trade guides, and even advertisements, to ensure the consumer is getting a fair valuation for the vehicle.

In this specific case X provided valuations from numerous sources. He went to two main dealers and provided information on what the vehicle had cost him to purchase, only a few months previously. X also set out information on a finance agreement he had, and he provided details of what the vehicle would cost now, in a heightened post-covid market. And when you bring all this supporting evidence into the equation, the valuation Haven suggests is an outlier, actually isn't.

Using all the information we have available the range of valuations is £37k to £55k. What I found particularly persuasive is that one particular trade guide included a good sample of

similar vehicles both advertised and sold recently in the UK. Most of these vehicles, with similar below average mileage were selling for £44k to £47k (excl VAT). Because of this, and taking all the evidence provided into account, I think the valuation put forward by our investigator of £46,000 (excl VAT) is fair and reasonable.

So, as X has already accepted an interim payment, Haven should now pay him the difference between the interim payment and £46,000. X needs to pass over all documentation and keys from the old vehicle to Haven. When Haven sells the vehicle, it should let X know, and if it sells for in excess of £46,000, Haven needs to pay any overpayment to X as it has already agreed.

Please note, I won't be asking Haven to add interest to any payments it makes. I understand there was a difference of opinion here. But it would be unfair to ask Haven to pay interest, when the options it put forward were fair and would've allowed X the chance to recoup his losses sooner. The same follows for compensation. I agree Haven made an error. But it sought to resolve the issue by putting forward the option of a constructive total loss. This and other options put forward would've allowed X to settle his finance and move on, whilst still making a complaint to our service. I know X feels Haven's decisions have made him lose out, in particular on a recent deal he had on the table. But Haven didn't delay things unnecessarily. The option to request a final decision is open to both parties, and Haven only exercised its right to do so.

My final decision

My final decision is that I uphold this complaint. I require Haven Insurance Company Limited to:

- Pay X the difference between the interim payment its already paid and a final settlement of £46,000. X will then be required to hand over all documentation and spare keys to Haven. Haven, once the vehicle is sold needs to let X know the selling price and pay any overpayment to X.

Please note, no interest or compensation is payable on any of these amounts for the reasons I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 15 June 2023.

Derek Dunne
Ombudsman