

The complaint

Mr N complains that Haven Insurance Company Limited declared his motor insurance policy void.

What happened

Mr N made a claim on his policy after he was involved in an accident. Haven said when the accident happened, Mr N was commuting and his policy didn't cover him for that. It cancelled the policy.

Mr N complained about that decision, which was referred to this Service. Our investigator said it was not fair to cancel the policy. She asked Haven to reinstate the policy, consider repair costs for Mr N's car, refund premiums he'd paid for temporary insurance and pay some compensation.

Haven accepted the recommendations and paid the compensation, but then discovered Mr N had been refunded three premium payments (totalling £201.33) by his bank through chargebacks. Haven said obtaining these funds was fraudulent and decided to void Mr N's policy. So he made a further complaint.

When she considered this complaint, our investigator said:

- On a strict interpretation of the policy terms, Haven can cancel a policy when there's been a successful chargeback, but she didn't think it was fair for Haven to apply the policy terms strictly in this case.
- Mr N only contacted his bank after finding out his policy would be cancelled, and this would not have happened if Haven hadn't wrongly cancelled his policy.
- It would not be fair to penalise Mr N for a situation that only happened because Haven had cancelled the policy unfairly.

The investigator asked Haven to remove any record of the policy being void, consider any costs Mr N had paid for repairs and arrange or pay for any outstanding repairs.

Mr N asked if Haven would also refund the premiums he'd paid for temporary insurance cover after his policy was cancelled.

The investigator agreed that Haven should refund these, on the basis he only had to find alternative cover because his policy had been cancelled, but she said it could deduct the chargeback payments Mr N had received.

Haven doesn't accept the recommendations and has requested an ombudsman's decision. It says the chargeback code is "*Consumer Disputes*" - "*Merchandise/Service Not Received*." This means Mr N disputed the transactions, claiming he never received the merchandise or services. But he had the benefit of the merchandise or service (the insurance policy), so this is fraud.

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.

The policy terms say:

"At Our option, We or Your Broker may cancel Your policy with immediate effect or void Your policy from inception at any time where; there is evidence of fraud or a valid reason for doing so, including but not limited to:

Where You have not paid the premium or You administer a 'chargeback' on Your policy premium."

Haven has the option to cancel or void the policy, but that doesn't mean it must do this; it has a discretion whether to do so. When exercising discretion on something like this, Haven should act reasonably and treat Mr N fairly.

I don't think it was fair to void the policy in Mr N's circumstances. He may have spoken to his bank about a chargeback, but he was only put in that position because his policy had wrongly been cancelled; if that hadn't happened, the situation would not have arisen. He shouldn't have been in that position.

Haven's concern is that Mr N is claiming on a policy that he hasn't paid for. It declares these policies void to protect it from future claims from a customer who has fraudulently not paid for the cover they are receiving. If a policyholder requests a chargeback and then continues with the policy, that's likely to be considered a fraudulent act under the policy terms. But I don't think that's what happened here. Mr N only contacted his bank because he'd been told his policy was cancelled. He wanted to avoid further payments being taken from his account. If he'd been told his policy was cancelled, I can understand why he would want to stop further payments being made and wouldn't necessarily have understood the implications of the chargebacks.

Although he did receive three chargeback payments, the way to address that is by allowing Haven to deduct the chargeback amount from the settlement.

Where something has gone wrong, the aim is to put the individual back in the position they would have been in, if things hadn't gone wrong. In Mr N's case, that means putting him in the position he would have been in if the policy had not been cancelled or declared void. In this way, the situation is put back to what would have happened if things had not gone wrong – the policy premiums are paid and Mr N is able to claim what he would have claimed for.

I appreciate Haven's concerns about protecting itself from future claims from a customer who has fraudulently not paid for the cover, and it would generally be fair to do that. But the circumstances of this case are unusual and – in the particular circumstances here – I don't think it would be fair to void the policy.

Putting things right

To put things right, Haven needs to:

- Remove any records of the policy being cancelled or declared void.
- Subject to Mr N providing proof of the following:
 - consider any repair costs Mr N has already paid and arrange or pay for any remaining damage related to the accident;

- refund the premiums he paid for the temporary insurance, less a deduction of £201.33 for the chargebacks.

My final decision

I uphold the complaint and direct Haven Insurance Company Limited to take the steps and make the payments set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 23 December 2024.

Peter Whiteley
Ombudsman