

## The complaint

Mr B has complained about the liability decision Haven Insurance Company Limited made on a claim made on his taxi 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 B is unhappy with Haven's decision to accept he was at fault for an accident he claimed for under his policy. He's also unhappy that Haven failed to deal with his complaint promptly, and with the way a call he made to Haven was handled.

In its final response letter, Haven confirmed it would attempt to pursue 50/50 liability, but that this couldn't be guaranteed due to the manoeuvre Mr B attempted which led to the accident. Haven also acknowledged that it had failed to log Mr B's complaint when he first raised it which had caused delays. It apologised and offered £150 compensation.

One of our investigators looked into Mr B's complaint but she didn't think it should be upheld. She said Haven's decision on liability was fair and reasonable in light of the available evidence. She accepted the call could have been handled better. But said it was clear the call handler took Mr B's concerns seriously as she placed him on hold to discuss the incident with colleagues. And although both sides spoke over each other at times, she said that was because both sides were passionately defending their position. Ultimately, she didn't think Haven needed to do anything.

Mr B didn't accept our investigator's assessment. So, as no agreement could be reached, the complaint was passed to me to decide.

I was minded to reach a different outcome to our investigator, so I issued a provisional decision to give the parties the chance to respond before I reached my final decision. Here's what I said:

### ***"What I've provisionally 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 minded to reach a different outcome to our investigator. I'll explain why.*

*Insurers are entitled to accept liability on behalf of their policyholders as it's ultimately the insurer who will pay to settle the claim.*

*It's not the role of the Financial Ombudsman Service to decide which driver is at fault in a dispute like this. Instead, I need to consider whether Haven reached a reasonable decision in light of the evidence. In order for its decision to be reasonable, I'd expect Haven to be able to evidence that it undertook suitable investigations before reaching a decision on liability.*

*In this case, Mr B has provided dashcam footage which shows how the accident happened. Mr B attempted to overtake a line of stationary vehicles (a bus and a car) on the right-hand side, crossing the central line despite there being some oncoming traffic. When Mr B was roughly parallel with the second vehicle (the car) it pulled out to the right and collided with the left side of Mr B's car.*

*Haven's view is that Mr B's decision to overtake two vehicles, rather than waiting for the car in front to overtake the bus first, contributed to the accident. And in light of the available evidence, I agree these conclusions are reasonable. So, I don't consider it was unfair for Haven to accept partial fault for the accident.*

*As it stands Haven is still disputing the level of liability with the third-party insurer. So, it's clear that it is trying to secure the best possible outcome for Mr B.*

*As I understand it, the third-party insurer is insisting on a 70/30 split, and the ball is essentially in Haven's court to make a decision to either accept this, or to take the matter to court to pursue the 50/50 split it has suggested. Given how long the claim has been ongoing, I think Haven now needs to make a decision.*

*Should a dispute arise over the liability decision that Haven ultimately reaches, Mr B is free to raise a new complaint about that. But to be clear, when considering this hypothetical future complaint, our role would still be limited to considering whether Haven's decision was reasonable, rather than deciding whether Mr B was at fault or to what extent.*

*Mr B has also complained that Haven failed to deal with his complaint when it was first raised in September 2023. Haven has accepted this, apologised, and offered £150 compensation to put things right. Taking into account everything Mr B has said about how this error impacted him, I think the £150 compensation is enough to fairly resolve this issue. So, I'm intending to direct Haven to pay Mr B this amount – if it hasn't already done so.*

*Finally, Mr B has complained about Haven's handling of a call he made and explained how distressing he found it. I've listened to the call in question and I agree that it wasn't handled well. I think the call handler was unprofessional at times, such as when she placed Mr B on hold while he was still speaking. I also think she was too quick to decide Mr B was 100% at fault for the accident, and that the language she used around this decision was likely to antagonise Mr B, regardless of whether what she was saying had merit or not. I also think the call handler was unnecessarily abrupt at times and that she spoke over Mr B when this could have been avoided. I appreciate some of this was likely because she was trying to get her point across, which I can understand. But ultimately, I think she ought to have been more patient with Mr B given he was the customer and she the professional.*

*Taking everything into account, I think Haven should pay Mr B an additional £100 compensation for the avoidable distress and inconvenience he suffered as a result of this call, taking the total of compensation due for this complaint to £250."*

I asked both sides to provide any further evidence or arguments they wanted me to consider within two weeks.

Both sides responded within that time to confirm they accepted my provisional conclusions and had nothing further to add. So, I'm moving forward with my 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.

In the absence of any new evidence or arguments to consider, I've reached the same conclusions I reached in my provisional decision – and for the same reasons.

### **My final decision**

For the reasons I've explained above, and in my provisional decision, I uphold Mr B's complaint in part.

Haven Insurance Company Limited must:

- Decide whether it accepts 70/30 liability, or whether it intends to pursue 50/50 liability through the courts, and communicate its decision to Mr B.
- Pay Mr B a total of £250 compensation for the avoidable distress and inconvenience it has caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 September 2024.

Adam Golding  
**Ombudsman**