

The complaint

Mr I complains that Haven Insurance Company Limited (Haven) unfairly recorded a fault claim against him after he was involved in a collision with a third party.

What happened

Mr I held a motor insurance policy with Haven. He was involved in a collision with a third party and made a claim with Haven.

Haven agreed to cover Mr I's claim but recorded a fault claim against him, as it felt that liability for the collision should be split 50/50 between Mr I and the third party. Mr I disagreed with this, as he felt the third party was at fault.

When Haven declined to further pursue a liability dispute against the third party insurer, Mr I complained. Haven rejected his complaint and he referred it to our service. Our investigator thought Haven had acted reasonably when it decided to accept a 50/50 liability split and record a fault claim against Mr I.

Mr I disagreed with our investigator, so his complaint has come to me to make 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.

The complaint I'm considering here is whether Haven made sufficient enquiries when seeking to establish liability for the collision. I'm aware Mr I considers the third party to have been at fault, as he believes they passed a red light before colliding with him at a junction.

My role here isn't to say who was at fault for the collision. Determining fault is a matter for the courts. What I need to do is establish whether I think Haven made a reasonable decision to record a fault claim, and accept a 50/50 liability split, based on the evidence it had available or which it should have obtained.

Mr I's policy, in common with many motor insurance policies, contains a condition which says that in the event of a claim, Haven can take over and settle any proceedings. What this means in practice is that Haven isn't obliged to continue disputing liability simply because Mr I says the collision wasn't his fault. That condition isn't unusual or inherently unfair. It allows Haven to make pragmatic decisions around accepting liability for claims based on the evidence, circumstances and cost of pursuing such a dispute.

The dispute would seem to be here whether the third party passed a red light, thereby causing the collision. The third party denied doing so, whereas Mr I believes they did. Neither car had any dashcam or similar recordings, and I haven't seen anything to suggest any independent witnesses were identified who could confirm what had happened.

The main argument made by Mr I is that Haven didn't properly explore the availability of

CCTV footage covering the junction in question. He says Haven were told the cost of obtaining recordings would be £140 by the local council and so they had a financial reason not to obtain it. I'm not sure I accept that argument. If CCTV footage had shown the third party was at fault, it's possible Haven would have recovered the costs it paid on Mr I's claim, including the damage to the vehicle. That would have been significantly more than the £140 cost of obtaining the footage, so I can't agree the cost was a factor in Haven not obtaining the footage.

It's agreed that Haven did contact the council about the possibility of obtaining CCTV footage, and that any relevant footage would only be retained for 30 days. Mr I points to an email he received from the council saying they'd contacted Haven about the footage but didn't receive a reply. However, I've also seen an email sent from the council to Haven which says that a traffic camera which covered the junction doesn't record its footage, and that other cameras had been checked which didn't show anything of relevance. That email was sent within 30 days of the collision.

I therefore consider that, even in light of the email sent from the council to Mr I, Haven acted reasonably. It had been told by the council that there was no footage available which was relevant to determining who was at fault for the collision. There would seem, on that basis, no reason for Haven to pursue the matter further with the council. I can't agree that Haven could, or should, have done more to obtain CCTV footage of the collision.

I'm unaware of any other possible sources of CCTV recordings of the collision, and neither Haven nor Mr I have referenced any other possible footage. It would therefore seem that having been told by the council that no footage was available and that there was no other independent evidence available to show what had happened, Haven concluded the only evidence available were the accounts of Mr I and the third party. As I've noted, these indicated neither party accepted they were at fault.

Mr I's also referred to the damage to his car being consistent with the third party being at fault due to where his car was struck. I can't agree the damage should have been an indicator to Haven that the third party was at fault. All the photos, and the damage itself, indicate is where the impact of the collision was on Mr I's car. It doesn't assist in establishing what happened to cause the collision.

I'm satisfied therefore that the only evidence on which Haven had to pursue a liability dispute was the account of Mr I. While there's nothing to suggest his account was implausible or incorrect, the same would be said for the third party's account. Mr I's account doesn't contain any information which would mean he was at fault. The same applies to the third party's account, as their account doesn't suggest an obvious action or failure on their part. I think it's fair to say Haven could reasonably give equal weight to both accounts. Where there's no other evidence to show what happened, and both accounts differ but should be given equal weight, I think it's fair for an insurer to agree a 50/50 split in liability. I can't agree that pursuing the matter further would have been a reasonable course of action.

Where an insurer agrees a 50/50 liability split, it will record a fault claim against its policyholder. This is what Haven's done here.

I'm aware that during the course of his contact with Haven about the CCTV footage and liability dispute, Mr I's been concerned he's received conflicting information, particularly by email and that a link he was sent didn't work. However, I can see that when Mr I's asked for clarification, Haven has correctly advised him. I understand his frustration with what happened, but Haven apologised for this and I don't think any detriment Mr I suffered lasted for any significant period of time. His primary concern was, and remains, that a fault claim was recorded against him for something he considered the third party to be at fault for. As

I've addressed above, I think Haven acted reasonably and its decision to record a fault claim was fair.

My final decision

I don't uphold Mr I's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 27 November 2024.

Ben Williams
Ombudsman