

The complaint

Mr L has complained that Haven Insurance Company Limited recorded an incident as a claim against him under his Taxi Insurance policy twice. He thinks this affected his no claim discount (NCD). He's also unhappy that Haven decided he was 100% at fault for this incident.

What happened

Mr L reported an incident with a third party in July 2023. The third party said Mr L reversed his taxi into them. Mr L said the third party went into the back of his taxi and that there was no damage to either vehicle. Haven decided it wouldn't be able to defend the claim against Mr L in court and agreed to settle the third party's claim in full. It recorded the incident twice on its system by mistake and later deleted the duplicate when it realised it had done this.

In the meantime, Mr L's policy came up for renewal. His broker told him that due to the number of claims recorded against him it couldn't offer him a renewal quote. Mr L was however able to find an alternative policy, also with Haven, through another broker, but it was much more expensive. He thought this was because of the duplicate incident recorded against him and the decision Haven had made to settle the third party claim against him.

Mr L complained to Haven about both its decision on liability and the fact it had recorded the same incident twice. Haven issued a final response, but it only dealt with the liability decision. It said it was entitled to decide how to settle the claim against Mr L and it was satisfied its decision to do so was reasonable.

Mr L wasn't happy and asked us to consider his complaint. One of our investigators did this. She didn't think Haven's decision to hold Mr L 100% responsible for the incident with the third party was reasonable. She felt the evidence it had didn't support this approach and it should have settled 50/50 at worst. She said its decision to hold Mr L 100% at fault had caused him unnecessary distress and inconvenience and that it should pay £200 in compensation to Mr L for this. She further explained that she'd not seen any evidence the duplicate incident had affected Mr L's NCD and that she was satisfied Haven had removed any record of the this.

Haven didn't agree with the investigator's view and asked for an ombudsman's decision. It pointed out that, even if the claim was settled on a 50/50 basis, it would still count as a fault claim, so it didn't see why Mr L should get compensation.

Having reviewed the complaint I asked the investigator to clarify some things with Haven, Mr L and his broker. Haven has now advised us that the duplicate incident has been removed from its system and was never recorded on the central database for claims – The Claims and Underwriting Exchange (CUE). It can't explain why it was recorded twice, but it thinks this may have been due to the third party or their representative reporting it as well. But it does seem to accept it was done in error.

Mr L's broker has said that the duplicate incident had no impact on its inability to offer him a quote at renewal. It was actually the first record of this incident that led to this. And it was

this incident that led to him not having a one year NCD when his policy came up for renewal. It clarified that when he took out his policy with them Mr L didn't have a NCD, but he would have had a year at renewal in October 2023 if he'd managed to go claim free for a year or only have non-fault claims.

Mr L has let us know that he was able to get another policy and did not actually have to stop working as a taxi driver, despite him telling Haven this was the case when he complained to it. But he still feels he wasn't at fault for the incident with the third party and that this has unfairly affected his NCD and led to him paying a lot more in premium.

I then emailed Haven and told it I intended to uphold Mr L's complaint. And I explained this was because I felt it was wrong to settle the third party claim against Mr L in full and that it should have defended it. I then set out what I thought it should do to put things right. I gave Haven a week to respond to my email.

Haven has responded to say it accepts it should have settled the third party's claim on a 50/50 basis. But it does still consider the third party's version of events is better supported by the evidence provided, i.e. the photographs of the vehicles after the incident and the damage to the third party's vehicle. In particular, it has suggested that the fact Mr L's taxi was still partly on the main road after the incident doesn't support his assertion that he'd turned into a minor side road and that the third party caught him as they tried to go past.

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.

First of all, I should say that I am satisfied the duplicate incident didn't affect Mr L's NCD and that it wasn't recorded on CUE. This is because Mr L's broker has made it very clear it was the first record of the incident which resulted in it not being able to offer a policy to Mr L. And Haven has explained the incident was never added to CUE and has now been deleted from its record. So, I do not think the duplicate incident ever had an impact on Mr L's premium.

As I've said, I've considered whether Haven's decision to agree to settle the third party claim against Mr L following the incident in July 2023 was reasonable. This is because, whilst it had the right under Mr L's policy to take over and settle claims against him as it considered appropriate, it needed to act reasonably in doing so due to its responsibility to treat Mr L fairly.

Haven thinks the testimony of the third party that Mr L reversed into him supports its view that Mr L was at fault. It has pointed to a mark on the side of the bumper on the third party's vehicle as consistent with their version of events. It also thinks the position of the vehicles after the incident supports its view. But, as I see it, these things would also be consistent with Mr L's version of events, that the third party hit the back edge of his taxi. This would most likely have caused the sort of mark that was on the third party's vehicle, as opposed to a scrape as suggested by Haven. Albeit, I appreciate Mr L did say he didn't notice any damage at the time to the third party's vehicle. Also, Mr L had clearly turned into the minor side road and the position of his vehicle could suggest he had stopped to let pedestrians cross and the third party hit him as they tried to get past the back of his vehicle. In reality, it is Mr L's word against the third party. In view of this, I do not consider Haven acted reasonably when it simply accepted the third party's version of events and agreed to settle their claim in full. Especially when, as far as I can see, there were no witnesses and no camera footage of the incident.

I appreciate our investigator thought Haven should have settled the claim on a 50/50 basis

and that Haven now agrees with this. But, in my opinion, this sort of incident would be more likely settled in favour of one party or the other. I say this because either Mr L reversed into the third party vehicle or he didn't and the third party hit him. It's not like an incident where there is a dispute about the position of the vehicles and who had the right of way. And it is very difficult to know which way the judge would have decided the case if it had gone to court. I say this because it would really depend on whose testimony they preferred, i.e. whether Mr L or the third party's version was more convincing. But I think it is fair to say it could have gone either way and that we will now never know because Haven decided not to defend the claim against Mr L when it really had no reason not to accept his version of events. In my view it should have defended its policyholder's position because his testimony was plausible and consistent with the damage to the third party vehicle. If it had done this the third party insurer would either have given up and the claim would have been recorded as non-fault or it would have gone to court and we'd now know the outcome.

In the circumstances, I do not think it is fair for Mr L to have a fault claim recorded against his record which has affected his NCD and the premium he has had to pay for his insurance, when it's possible this would not have been the case if Haven had acted reasonably. So I think as part of the fair and reasonable outcome to his complaint Mr L should be given the benefit of the doubt and Haven should record the claim as non-fault on its records and on CUE. This will mean Mr L's NCD will need to be reinstated to one year when his new policy started in October 2023 and Haven will need to provide him with an appropriate refund of premium..

I also agree with our investigator that the way Haven handled the claim caused Mr L unnecessary distress and inconvenience which warrants a compensation payment of £200.

Putting things right

For the reasons set out above, I've decided to uphold Mr L's complaint and make Haven Insurance Company Limited do the following:

Record the abovementioned claim against Mr L as non-fault (bonus allowed).

Reinstate his no claim discount to one year and retrospectively apply this to his new policy.

Work out what the premium for his new policy would have been with one years no claim discount and refund to him the difference between this and what he paid.

If Mr L paid the premium for his new policy in full, Haven should add interest on this refund at 8% per annum simple from the date Mr L paid it to the date of payment. If Mr L is paying the premium in instalments Haven should refund any interest he has paid as a result of this up to the point his premium is adjusted to reflect one year's NCD.

My final decision

I uphold Mr L's complaint against Haven Insurance Company Limited and order it to do what I've set out above in the 'Putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 30 September 2024.

Robert Short
Ombudsman