

The complaint

Mr G complained about Haven Insurance Company Limited. He isn't happy about the way it settled a claim under his motor insurance policy.

What happened

Mr G was involved in an accident with a bus. He looked to overtake the bus and was subsequently involved in a collision and Mr G held the bus driver responsible. But when Haven looked into the circumstances surrounding the claim it didn't think it could defend Mr G and he was held at fault for the accident. So, Mr G complained to Haven about this.

Haven explained that when it looked into the circumstances surrounding the claim it initially looked to defend Mr G. The third-party insurer held Mr G responsible and when Haven looked more fully at the circumstances surrounding the case, including the CCTV evidence provided from the bus, it concluded that it couldn't fully defend Mr G. Although it did ask its solicitor to look at whether it could defend Mr G, especially as he may have had a personal injury claim. However, although there was a suggestion that they could look to defend Mr G on a 50/50 split liability basis the solicitor decided there wasn't any prospect of defending Mr G and accepted full liability. But Mr G remained unhappy and complained to this Service.

Our Investigator looked into things for Mr G and partly upheld his complaint. Although he accepted Haven had acted fairly in deciding liability and that it couldn't defend Mr G, he thought it delayed in communicating its final position. And so, he thought Haven should pay £100 by way of compensation.

As Mr G didn't agree the matter has been passed to me for review.

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.

I can understand Mr G's frustration here as he was at the scene and believes the bus driver was at fault for the accident. But, as our Investigator explained, Haven looked at all the evidence and even gained a legal opinion about the chances of defending Mr G but decided it couldn't defend him. So, I can't say it has acted unreasonably here. I'll explain why.

It isn't the role of this Service to decide liability, which is a matter for the courts. Although we do look to ensure insurers have acted in a fair and reasonable way. Under the policy terms, Haven has the right to take over the settlement of the claim. This gives it the right to decide whether to take a third party to court or settle a claim. Legal proceedings are time-consuming, expensive and the outcome can be uncertain. As such, it will not always be commercially sensible to take legal action against a third party.

However, this Service's general approach is that insurers should act fairly and reasonably in deciding whether to settle or pursue a third party. We expect insurers to make a reasonable assessment, based on a clear understanding of the evidence and the circumstances surrounding the accident. With this in mind I've carefully considered how Haven has handled

this claim. And I'm satisfied it carried out a reasonable investigation and took into consideration all of the available evidence. I say this as Haven clearly looked to defend Mr G during the early stages of the claim but ultimately decided, following consideration of all the evidence including the CCTV from the bus, that Mr G was at fault.

I know Mr G disputes this, but Haven also appointed a solicitor to look at the circumstances surrounding the incident with the aim of looking to defend Mr G's personal injury claim, so I think they have acted fairly. And while this matter has been with me for consideration I've looked at the CCTV footage and I can understand why Haven and the solicitor decided that they wouldn't defend liability. I say this as the bus was clearly established in its lane when Mr G cut across in front of the bus to turn left, leaving the bus driver little reaction time.

Given all of this, I consider it would be very difficult for Haven to fully defend Mr G in court if it looked to dispute the claim. I say this as Haven and the solicitors who considered the claim have a great deal of experience in looking at disputed liability cases like this and both felt that the CCTV didn't fully support Mr G's position that the other driver was at fault. And so, I judge Haven acted reasonably in settling the third party's claim, and I do not require it to take any further action.

However, I agree Haven should have ensured Mr G was fully up to speed about the claim and confirmed to him that he would be held fully at fault for the claim. But I agree £100 compensation feels fair for the poor service provided here.

My final decision

It follows, for the reasons given above, that I partly uphold this complaint. I require Haven Insurance Company Limited to pay Mr G £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 15 July 2024.

Colin Keegan
Ombudsman