

## The complaint

Mr D complains that Haven Insurance Company Limited mishandled his claim on a commercial vehicle insurance policy.

## What happened

The subject matter of the claim and the complaint is a van, first registered in 2014.

For the year from mid-July 2022, Mr D had the van insured on a policy with Haven. Any claim was subject to an excess of £400.00.

In late September 2022, Mr D reported to Haven that he had taken the van to a garage that had committed theft.

By a letter dated mid-October 2022, Haven declined the claim, saying this was a case of theft by deception, which the policy didn't cover.

In late October 2022, Mr D complained to Haven that it should pay his claim.

By a final response dated February 2023, Haven turned down the complaint.

Mr D brought his complaint to us in mid-February 2023.

### *our investigator's opinions*

In late March 2023, our investigator didn't recommend that the complaint should be upheld. She thought that Haven had acted fairly and reasonably based on the information they currently had.

In late April 2023, Mr D told us that the garage had caused malicious damage to the interior of the van.

In early August 2023, a court directed the garage company to pay Mr D the following:

damages	£3,860.00
interest	£ 50.00
court fees	£ 596.00
total	£4,506.00

In mid-August 2023, Mr D sent us another complaint form. He told us that he'd won the court case against the garage, but Haven still declined his claim.

In late November 2023, Mr D told us the van had been scrapped.

Our investigator recommended that the complaint should be upheld in part. She thought that, subject to Haven retaining the vehicle for salvage, Haven had offered to pay the following:

pre-incident value	£7,604.00
minus	
policy excess	£ 400.00
judgement costs awarded for vehicle damages	£3,860.00
amount payable to Mr D	£3,344.00

She also thought that Mr D had a valid claim that should've been dealt with earlier and Haven's reluctance to do so caused Mr D distress and inconvenience.

The investigator recommended that Haven should pay Mr D:

1. the pre-loss market value of the vehicle (plus 8% simple interest calculated from the date of the court judgement until the settlement is paid) minus the excess, judgment costs and the amount Mr D received when he salvaged the vehicle; and
2. £200.00 for the distress and inconvenience he experienced.

Later, the investigator reduced the deduction for the court judgment from £3,860.00 to £2,150.00.

*my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mr D and to Haven on 26 June 2024. I summarise my findings:

I was minded that Haven's offer was more than I would otherwise have found it fair and reasonable to direct Haven to pay Mr D. However, as that was an offer through us to resolve the complaint, I was minded to find it fair and reasonable to hold Haven to that offer.

Further, Haven didn't handle Mr D's claim at all well. And the impact on Mr D included feeling that he had to fight to get Haven even to consider his claim.

Subject to any further information either from Mr D or from Haven, my provisional decision was that I upheld this complaint in part. I intended to direct Haven Insurance Company Limited to pay Mr D:

1. £4,673.80 for his damaged van; and
2. simple interest on £4,673.80 at a yearly rate of 8% from 14 November 2023 to the date of payment. If Haven considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr D how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
3. £200.00 for distress and inconvenience.

Mr D responded to the provisional decision as follows:

*"1. I paid £9399 for the van not £5000.  
2. The engine is reported as theft by the police, this is why I believe the did repair the engine and then sold it elsewhere as the could not provide an explanation to the Police nor the court as to where the engine is.  
I've attached the evidence to support both of these points.  
I still believe it is wrong to deduct the amount the court ordered the garage to return to me from the amount haven should are liable to pay."*

Haven accepted the provisional 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.

Mr D has shown us a finance agreement that records the cash price of the van as £9,399.00.

From April 2022, the van had an engine problem. Mr D engaged a garage company to fix the engine problem.

In early June 2022, Mr D paid the garage about £3,000.00. His brother collected the van but it broke down with an engine problem. So, Mr D got the van delivered back to the garage.

When he insured the van with Haven in July 2022, Mr D's statement of fact document said that he'd bought the van in July 2020 for £5,000.00. The statement of fact also estimated the van was worth £5,000.00 in July 2022. At that time, the van had broken down a second time and was back at the repair garage subject to a dispute.

In late July 2022, the garage wasn't responding. Mr D saw the van at the garage with no engine or front tyres fitted. Mr D reported the matter to police.

Mr D got the van back but with no engine fitted.

In early August 2023, a court directed the garage company to pay Mr D damages of £3,860.00.

I think that Mr D regards it as obvious that the garage stole the van's engine. He says the judge agreed with him.

However, in my view, the defective engine diminished the value of the engine and of the van. The value of the engine and of the van was lower by reference to the cost of fixing it. The best evidence of likely cost is the amount of £3,000.00 that Mr D had paid in June 2022.

The garage fixed the engine but - according to the judgement - the garage had failed to perform with reasonable care and skill, causing damage to the turbo. The judgement didn't say that the garage had been dishonest.

In my view, the garage could remove the defective engine without dishonesty. And - in the context of a closed business – the garage's failure to explain what happened to the defective engine isn't enough to persuade me that the garage stole it.

I'm not persuaded that there had been any theft. So I don't agree with Haven's explanation that there had been theft by deception. However, I'm not persuaded that Haven treated Mr D unfairly by not paying the theft claim and not collecting or storing the van.

Vandalism of the interior of the van was reported through us in April 2023. That was vandalism of a van of a lower value because it didn't have an engine. So I wouldn't find it fair to direct Haven to pay the claim by reference to the value of the van with a working engine. I would've found a deduction of about £3,000.00 fair and reasonable for the defective engine. Also, there would be a deduction of the £400.00 excess.

In the event of a total loss, Haven would've paid Mr D the pre-vandalism value of the van. And Haven's salvage company would've paid Haven for the damaged van.

Haven is offering to pay the following:

pre-incident value	£7,604.00
minus	
policy excess	£ 400.00
judgement for vehicle damages	£2,150.00
salvage	£ 380.20
sub total	£4,673.80

plus interest from 14 November 2023

I've seen evidence of the amount that the salvage company would've paid Haven. That's commercially confidential and I can't share it with Mr D. But I'm satisfied that the deduction of only £380.20 is generous to Mr D.

#### Mr D's response to the provisional decision

I've accepted that Mr D paid £9,399.00 for the van. However, I've found that he told Haven that he'd paid £5,000.00.

I accept that police recorded a theft of the engine. However, I don't think there was any prosecution. And haven't been persuaded that there was any theft. In any event, any theft was of a defective engine of a lower value.

Mr D maintains that it would be wrong to deduct the amount the court ordered the garage to return to him from the amount Haven should pay him. However, whilst Haven is making a deduction of £2,150.00 in relation to the court judgement, I'm looking at Haven's offer overall. In my view, its offer of £4,673.80 is more than enough to compensate Mr D for the reported theft and vandalism.

#### **Putting things right**

I consider that Haven's offer is more than I would otherwise have found it fair and reasonable to direct Haven to pay Mr D. However, as that is an offer through us to resolve the complaint, I find it fair and reasonable to hold Haven to that offer.

Further, Haven didn't handle Mr D's claim at all well. And the impact on Mr D included feeling that he had to fight to get Haven even to consider his claim. I give Haven credit for the generous but belated offer to settle the claim. I find it fair and reasonable to direct Haven also to pay Mr D £200.00 for distress and inconvenience.

#### **My final decision**

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Haven Insurance Company Limited to pay Mr D:

1. £4,673.80 for his damaged van; and
2. simple interest on £4,673.80 at a yearly rate of 8% from 14 November 2023 to the date of payment. If Haven considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr D how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
3. £200.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 August 2024.

Christopher Gilbert

**Ombudsman**