

The complaint

Mr M complained that the business unfairly avoided his motor insurance policy. He was also represented by his daughter, Miss M.

What happened

Mr M took out a policy with CIS. After he had an accident, CIS found that the car wasn't registered in his name but was instead still registered to the previous owner, a family member. CIS avoided the policy because of this, meaning that they treated it as if it never existed. They said they would refund his premiums.

Mr M complained to CIS. He said that he had at first been driving the car as a named driver on a family member's trade policy. But he then bought the car from the family member and he took out a policy with CIS in his own name. Another family member did this for him online, on his behalf. In the policy application he said that he was the car's registered keeper and legal owner. He said he assumed that he was the registered keeper because he thought that the family member had sent off the vehicle registration form. But it seems that this didn't happen, again by mistake.

There was then some confusion because when CIS phoned Mr M about the accident, he said he was driving the car as a named driver on the trade policy and he didn't have a policy in his own name. Miss M also told CIS that Mr M was insured under the trade policy. Miss M also said that she'd told the broker that Mr M was not the registered keeper, but the broker said that she hadn't discussed that with them. However Mr M and Miss M did later accept that Mr M did take out a policy in his name and that he wasn't the registered keeper. So that's not in dispute. But Mr M felt that CIS avoiding the policy was too harsh a punishment for forgetting to get the vehicle registration changed. He was unhappy because the third-party insurer was pursuing him in court to recover their claim costs. He was also unhappy because his insurance premiums had gone up because CIS had avoided the policy. He felt that it was all an honest mistake and hadn't been deliberate.

But CIS said Mr M had failed to disclose correct information. They said that they wouldn't have insured him if they'd known he wasn't the registered owner and the policy information they sent him warned that such a failure may result in increased premiums, refusal of claim and his policy being treated as if it never existed.

The investigator didn't recommend that the complaint should be upheld. She thought that CIS had acted reasonably in declining the claim and avoiding the policy within the terms of their policy. And though a number of factors could cause an increase in premiums, the avoidance of a policy was something that insurers were entitled to take into account and that wasn't unfair.

Mr M didn't agree and so the complaint has been passed to me to decide.

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.

What I have to decide is whether CIS have acted reasonably in avoiding the policy and declining the claim. An insurer may only avoid a policy in certain circumstances. The Consumer Insurance (Disclosure and Representations Act ("CIDR") says that in order to do so, they must show first of all that there was a "qualifying misrepresentation". To do that, the insurer must show that they asked a clear question, and that the consumer didn't take reasonable care in answering it.

CIS have shown that they asked Mr M the question "*Are you the registered keeper and legal owner?*" and he ticked "Yes". I think that was a clear question and Mr M did say that he was the owner and registered keeper. Neither Mr M nor Miss M, who completed the form, deny that. But they said it was an honest mistake. They thought that he was the registered keeper because they mistakenly thought the registration document had been sent off to be changed to Mr M's name by the other family member. But in fact Mr M was not the registered keeper then and CIS have shown us their underwriters' confirmation that they wouldn't have insured him if they knew this.

Mr M says that it should be enough that he was the owner and not being the registered keeper shouldn't matter and they could change that. But it's up to insurers to say what they need to know to decide who to insure. And they have shown us their underwriters' confirmation that they wouldn't have insured him if they knew this.

Mr M and Miss M have explained that Mr M is elderly and vulnerable and isn't familiar with computers or on the phone, and that's why Miss M completed the application online on his behalf. She said that's also why he was at first confused and said that he didn't have a policy with CIS. But I don't think that the confusion on his part then, or on her part, makes a difference. That's because the application was completed on his behalf and both he and the person acting on his behalf thought he was the car's registered keeper. I accept that they may have thought and said that in good faith, without knowing that the ownership hadn't been changed, but this was something that could have been checked first.

So taking all of this into account, I don't think it was unfair of CIS to decide that Mr M didn't take reasonable care in answering CIS's clear question about the registered keeper of the car. They include in their policy information warning that the information was important to them and so Mr M shouldn't have been in doubt that he should have given the correct information. And so I think CIS acted reasonably to decline the claim.

Under CIDRA a misrepresentation can be deliberate or reckless or careless. CIS haven't shown that it was deliberate or reckless, and so they have treated it as careless and so they must refund the premiums, as they've agreed.

I think that it's really unfortunate that this situation happened, through some errors, and I can see it's caused Mr M and his family a good deal of worry and expense. This is because the other insurer is seeking recovery of their costs of the other driver's claim. But it's also because Mr M is his wife's carer and the increased insurance premiums mean that's it is no longer affordable and this has impacted his opportunity to get them out and about by car.

But I've got to look at whether CIS have done anything wrong. The fact remains that Mr M was not the cars' registered keeper and if he had said that, CIS wouldn't have insured him at all. They are entitled to be given the correct information to assess their risk and are reliant on consumers to do that.

Even if a consumer's failure to do this arose from confusion or innocent mistake, it's still not CIS's fault. CIS have shown us what they needed to do to decline the claim and avoid the

policy so I don't think that they've acted unfairly. And so, while I appreciate that it's not what Mr M would like to hear, this means that I won't be asking CIS to do anything else.

My final decision

For the reasons I've given above it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 October 2020.



Rosslyn Scott
Ombudsman