

The complaint

Mrs M complains that Admiral Insurance Company Limited avoided her car insurance policy and turned down her claim.

What happened

Mrs M held a car insurance policy with Admiral. There were also named drivers on the policy. One of the named drivers was involved in an accident and Mrs M's car was deemed a total loss. Admiral reviewed the claim but turned it down. They said during investigations into the accident the named driver had said they were the main driver of the car and not Mrs M. As Mrs M was the policy holder Admiral thought Mrs M hadn't been truthful about who the main driver was. Because of this Admiral avoided her policy and declined her claim.

Mrs M didn't think this was fair and complained. She said the named driver had been confused when answering Admiral's questions and provided the responses they thought Admiral would want to hear. Mrs M maintained that it was her car and didn't it was fair for Admiral to turn down the claim.

Admiral reviewed the complaint and didn't uphold it. They said they believed the named driver was in fact the main driver of the car. They also pointed out that while the purchase invoice for the car was in Mrs M's name, the named driver's car, which they were the policy holder for and main driver of, had been used in part exchange for Mrs M's car. Because of this, they didn't think Mrs M had been truthful about who the main driver was. Mrs M didn't agree and referred her complaint here.

Our investigator reviewed the complaint and didn't recommend it be upheld. She thought Admiral had demonstrated that the named driver was the main driver and didn't think Admiral had done anything wrong in avoiding the policy and declining the claim. Mrs M didn't agree and asked for an ombudsman's decision.

I issued a provisional decision on this complaint on 13 June 2022 where I said:

"The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

Admiral thinks Mrs M failed to take reasonable care not to make a misrepresentation when

she set the policy up as Mrs M was recorded as the main driver when in fact the main driver was actually one of the named drivers.

Admiral said this policy was brought through an aggregator site, and following this, a motor proposal form (statement of fact) was sent to Mrs M to check all the details were correct.

Our investigator asked Admiral for a copy of the question Mrs M was asked when she bought the policy so I can consider whether she was asked a clear question. Admiral haven't provided the question Mrs M was asked. I've therefore looked at the motor proposal form and, having done so, I don't agree Admiral have shown Mrs M made a misrepresentation. I say this because the motor proposal form says under the driver section: "Policyholder" and then lists Mrs M's details. It then goes on to list three more drivers and just has the word "Driver" next to each of them.

As the documents sent to Mrs M don't mention who the main driver is, I don't think Admiral have demonstrated that Mrs M made a misrepresentation in relation to this. Because Admiral haven't shown Mrs M has made a misrepresentation, I'm not satisfied they have acted fairly and reasonably in declining her claim and avoiding the policy. I've therefore looked at what impact this has had on Mrs M.

Mrs M said because of Admiral's decision to decline the claim she's had to pay the finance on the car without her policy covering this loss. She also said this would impact getting future insurance. Therefore, to put things right Admiral need to pay Mrs M's claim, in line with any remaining terms and conditions under the policy. If this results in Admiral making a payment to Mrs M, they should add 8% simple interest to this amount, calculated from the date of claim until the date of payment. If Mrs M has incurred any late fees or additional interest on the finance due to Admiral not paying her claim, Admiral should also pay the late fees and interest to Mrs M, along with 8% simple interest to compensate her for not having the money.

Admiral should also remove any record of the avoidance from internal and external databases and provide Mrs M a letter to say they incorrectly avoided her policy. This will allow her to present it to any future insurers should she need too."

Admiral didn't respond to my provisional decision by the date requested. Mrs M responded and accepted it.

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.

As Admiral didn't respond and Mrs M accepted my provisional decision. I see no reason to depart from it.

My final decision

For the reasons explained above, and in my provisional decision, my final decision is that I uphold this complaint. I require Admiral Insurance Company Limited to:

- Pay Mrs M's claim in line with the remaining terms and conditions of the policy
- Pay any late fees and interest incurred on the finance on the car, because of the claim being declined

- Remove any record of the avoidance from all internal and external databases and provide Mrs M with a letter to explain they avoided her policy incorrectly

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 5 August 2022.

Alex Newman
Ombudsman