

The complaint

Mr M says Accredited Insurance (Europe) Limited acted unreasonably in not paying a claim he made on his motor insurance policy.

What happened

Mr M's car was written-off in an accident. Accredited's engineer noted that there were modifications to its lights and exhaust pipe. It said had Mr M declared the modifications when he bought the policy, it wouldn't have offered him cover. Mr M said he hadn't made any modifications and he didn't know the car had been modified when he bought it. Accredited declined the claim but allowed Mr M to add a new car to the policy.

One of our investigators reviewed Mr M's complaint. He thought Mr M had answered the question about modifications to the best of his knowledge. He didn't think they would have been obvious to an average consumer. So he thought it would be fair and reasonable for Accredited to pay the claim. Accredited said the car didn't look like a standard model. And it thought Mr M would have looked at others of that type before buying it, so in its view, he should have realised it was modified.

As there was no agreement, the complaint was 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.

It seems Accredited considered whether Mr M had made a qualifying misrepresentation in not advising it about the car's modifications. It told him its underwriters would not have offered him cover had all the facts been known when he bought the policy.

In those circumstances, an insurer may have the right to avoid the policy altogether, if it can show that the requirements set out in the Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA') apply. Accredited may or may not have been able to do that. But it chose to allow the policy to continue, thereby affirming it. Once an insurer has done that, we don't think it's fair to the consumer for it to change its mind later.

The policy's general conditions state that cover only applies if the details set out in the policy's *statement of fact* agreed to by a consumer are accurate, to the best of the consumer's belief. Mr M agreed to the details in it that said the car had no modifications. Although that wasn't correct, Mr M says that to the best of his belief, it wasn't modified.

I've seen the images of the car, and I don't think most reasonable consumers would have noted that the lights had been modified. I think most of them would have noted that there were two exhaust pipes – and that they were larger than in a standard car. But this was a sports model, and I don't think it's unusual for them to have such features as standard.

The advert for the car made no reference to modifications. Mr M says the seller didn't mention them – and the specification I've seen for the car didn't refer to the exhaust either. I don't think it was unreasonable for Mr M to take the car on face value and to assume it was a standard sports model. Accredited thinks he would have looked at other cars of the same type previously, but there's no evidence of that. And if he did, from what I've seen, most of the photos used in adverts don't show the car's rear.

Mr M only had a duty to provide accurate details to Accredited to the best of his belief, in line with the policy's general conditions. I don't think Accredited has been able to show that he didn't do so. As I don't think Mr M breached the general conditions, I think Accredited should settle his claim, in line with all other policy terms and conditions.

My final decision

My final decision is that I uphold this complaint. I require Accredited Insurance (Europe) Limited to settle the claim (in line with all remaining policy terms and conditions). It should add interest to any sum paid for the car, at the simple yearly rate of 8%, from the date the claim was declined to the date of settlement.

If Accredited thinks it's required by HM Revenue and Customs to withhold income tax from the interest, it should tell Mr M how much it has taken off. It should also provide a tax deduction certificate if required, so Mr M can reclaim the tax if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 June 2022.

Susan Ewins
Ombudsman