

The complaint

Mrs H complains that One Insurance Limited (One) refused to pay a claim on her motor insurance because it said she had given incorrect information when taking out the policy.

What happened

Mrs H had motor insurance with One which she had taken out online. Her car was involved in an accident and she made a claim on her insurance policy. When One looked into the claim, it said Mrs H had failed to declare that the car had previously been a write off, and it voided her policy from its inception and refused to pay the claim.

Mrs H complained to One. She said she hadn't seen a question asking if the car had previously been a write off, and in any event, although she knew the car had previously been involved in an accident, she didn't know it had been written off.

One said there was a pop-up box on the online form which asked Mrs H to confirm, among other things, that the vehicle wasn't a "registered write off". One said Mrs H also received a new business welcome letter asking her to read the insurance documents carefully to ensure the details were correct, and explaining that failure to provide correct information could result in her having no cover. One said that if Mrs H had disclosed at the time that the vehicle had previously been written off it wouldn't have given her the insurance.

One said that this was a misrepresentation under the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). One said it accepted that the misrepresentation may not have been intentional, so it considered that Mrs H had made the misrepresentation carelessly. One said that under CIDRA if it wouldn't have entered into the contract with Mrs H it would be entitled to make the insurance void, refuse to pay the claim and return the premiums.

However One accepted that the service Mrs H had received had been below the standard it expected and it offered to pay her £100 in recognition of this.

Mrs H wasn't happy with One's response and complained to this service. Our investigator upheld her complaint. He said he didn't think it was fair and reasonable for One to have treated the misrepresentation as a qualifying one, as he couldn't say the answers weren't completed carefully, accurately and to the best of Mrs H's knowledge. The investigator asked One to pay Mrs H's claim in full, plus interest, and less any refund of premiums. He also asked One to update any information held on databases about avoidance of the policy and indemnify any claims up to the original expiry date of the policy.

One didn't agree, saying Mrs H was aware the car had previously been in an accident, presumably because the garage that sold it had told her. One said a garage would usually also confirm if the car had been a total loss, and it was her duty to ask about the vehicle's history when buying it.

Because One didn't agree with the investigator's suggestions, the complaint has been passed to me. Mrs H wants compensation for the damage to her car and the upset caused

to her.

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'm upholding Mrs H's complaint. I'll explain why.

CIDRA potentially applies if a consumer answers a question incorrectly when taking out an insurance policy. This is called misrepresentation. CIDRA says a consumer should take reasonable care not to make a misrepresentation when taking out a policy. There are a number of actions an insurer can take if it establishes the consumer has misrepresented something, including cancelling the policy.

However the first step is to establish if there has actually been a qualifying misrepresentation. If there hasn't, there's no need for me to consider CIDRA further.

The pop-up box said:

"It is important that you are aware of the following

- *Your vehicle must not be registered a write off."*

There are a number of other statements then a box to click which says: *"Confirm and continue"*.

Mrs H says she didn't see the pop-up box, and anyway she didn't know the car had previously been written off. She said this wasn't mentioned on the V5C registration documents and the car had a valid MOT certificate and was roadworthy. I've seen the V5C and there is no mention of a previous write off. Mrs H says at no point did she intend to mislead One.

I don't think it was reasonable for One to just assume that Mrs H would have been told by the seller that the car was previously written off. I think Mrs H gave One information that was correct and accurate to the best of her knowledge and so there was no qualifying misrepresentation under CIDRA. As there was no qualifying misrepresentation, I don't think it was fair or reasonable for One to refuse to pay the claim.

My final decision

For the reasons given above I'm upholding Mrs H's complaint. I require One Insurance Limited to pay Mrs H's claim in full less any refund of premiums.

This to include interest at 8% a year simple from the date Mrs H was advised the policy was voided to the date of payment. If One Insurance Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs H how much it's taken off. It should also give Mrs H a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

I also require One Insurance Limited to update any information held on internal or external databases about voidance of the policy, and indemnify any claims up to the original expiry date of the policy in line with its standard claims procedure.

One Insurance Limited has already paid Mrs H £100 in recognition of the below standard

service she received. I think this was fair and reasonable and I'm not asking it to pay more for this.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 19 October 2022.

Sarah Baalham
Ombudsman