

The complaint

Miss F complains that Mulsanne Insurance Company Limited mishandled a claim on her motor insurance policy.

What happened

The subject matter of the claim and the complaint is a car, first registered in about 2015. For the year from April 2022, Miss F got the car insured, through an insurance intermediary, on a comprehensive policy with Mulsanne.

Unfortunately in late May 2022, the car was damaged in an incident with a third party in a car park near Miss F's place of work. Miss F made a claim to Mulsanne.

In mid-June 2022, Mulsanne said she had been using the car for commuting to work, which the policy didn't cover. Mulsanne declined to meet her claim. It said it would deal with the third party's claim and seek reimbursement from Miss F.

Miss F complained to Mulsanne that it should cover her. By a final response dated August 2022, Mulsanne turned down the complaint. Miss F brought her complaint to us in late August 2022.

Our investigator didn't recommend that the complaint should be upheld. He thought that the policy documents clearly said commuting was excluded.

Miss F disagreed with the investigator's opinion. She asked for an ombudsman to review the complaint. She says, in summary that:

- English is only a tertiary foreign language to her.
- Her previous car had commuting cover. The policy was taken out by someone who is more knowledgeable in English matters than she is.
- In December 2021, she called her insurer's breakdown service. She said she had been travelling to work. The insurer paid for the towing of her car.
- When she took out the Mulsanne policy, she did not know the exact meaning of the word "commuting" even when translated into her first language.
- She had to do everything online.
- She did not want to save money.
- She told the insurer that she was going to work on the day of the accident.
- Her loss is about £5,000 (the value of her car) along with £750.00 in storage charges, and damages for an amount that Mulsanne was unable to tell her. This is an amount that she cannot cope with.
- CIDRA says that Mulsanne has the right not to pay only if she had been reckless or deliberate. She was negligent but she didn't make a deliberate or reckless misrepresentation.

- She has sent us references as to her honesty.
- Under CIDRA, it would be fair for the insurer to compensate her for the damage in proportion to the difference (about £30.00) between the premium she paid and the premium with cover for commuting.
- It would be unfair for Mulsanne to earn £10,000.00 or more on her in exchange for £30.00 to £50.00.

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.

The Financial Ombudsman Service is bound by the Financial Conduct Authority's dispute resolution rules. One of those rules has the effect that – before we can investigate a complaint - a consumer must first have made that complaint to the insurer and waited for up to eight weeks for a final response.

Miss F complained to Mulsanne about declining her claim. I find it likely that she also complained to Mulsanne about delay causing increased storage charges. Mulsanne's final response dated August 2022 dealt only with the complaint about declining the claim. When she contacted us in late August 2022, Miss F included the complaint about delay.

Later, Miss F mentioned some issues that arose in relation to an accident and a breakdown that post-date the accident in May 2022 and the final response in August 2022. As Miss F made the complaints about the later accident and the later breakdown after the final response, I can't deal with them in this final decision.

From the policy documents, I've noted some of the recent history of Miss F's insurance. I've seen that, for the year from May 2018, Miss F had an older (57- plate) car. It was insured through an insurance intermediary owned by a supermarket. The policy documents recorded her occupation as a sales assistant. She had cover for social, domestic and pleasure ("SD&P") including commuting to a place of work.

From what Miss F has said, she had to scrap the 57- plate car but she didn't cancel the policy before it expired in May 2019.

I've seen that, for the year from April 2019, Miss F had the newer car that is the subject matter of the claim and the complaint. It was insured through the same intermediary. She had cover for SD&P excluding commuting.

Miss F renewed the policy for the year from April 2020, again excluding commuting.

I haven't seen the policy documents for the year from April 2021. I haven't seen any evidence that Mulsanne was the insurer for Miss F's breakdown cover in December 2021. So I don't accept that her car's breakdown at that time caused her to contact Mulsanne or to tell Mulsanne that she was driving to work.

I've seen that, for the year from April 2022, Miss F was no longer using the supermarket intermediary but a different intermediary. Mulsanne's policy schedule for Miss F said that her occupation was sales manager. And it recorded an above-average estimate of mileage. But the statement of fact didn't say where Miss F worked or how she intended to travel between home and work.

I accept that Miss F speaks other languages better than English and she made a mistake in not selecting cover for commuting.

I don't find it relevant to consider how Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA") applied to what Miss F had told Mulsanne when she took out the policy. That includes whether Miss F made a careless or reckless misrepresentation. It also includes any difference in the premium. It also includes what remedies CIDRA gave Mulsanne such as paying only a proportion of the claim.

I say that CIDRA is not relevant because the policy excluded commuting. That was clearly stated in the certificate of insurance. That exclusion applied to Miss F notwithstanding that she didn't fully understand its meaning.

When she reported the accident in May 2022, Miss F said it had happened on her way to work. Later, an advice worker said on her behalf that Miss F had finished work and left, forgetting a personal item she had left there. She had gone to a filling station, then remembered the personal item so was heading back to work to collect it.

I find that Miss F had commuted a long way from home to get to work. The accident happened close to her work. So I don't consider that Mulsanne treated Miss F unfairly by saying that she'd been commuting, and the policy didn't cover her for the accident.

I don't under-estimate the scale of Miss F's financial loss. That includes storage charges. But in my view Miss F has fallen short of showing that Mulsanne was responsible for any unreasonable delay that increased the storage charges.

Mulsanne is reliant on the third party to show the amount of their loss and damage. In respect of its claim for reimbursement of its outlay to the third party, I expect Mulsanne to keep Miss F informed and to deal positively and sympathetically with any financial hardship.

However, I don't conclude that Mulsanne treated Miss F unfairly by declining her claim. I don't find it fair and reasonable to direct Mulsanne to pay for Miss F's car or the storage charges or not to ask her to reimburse its outlay.

My final decision

For the reasons I've explained, my final decision is that I don't uphold this complaint. I don't direct Mulsanne Insurance Company Limited to do any more in response to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 28 March 2023.

Christopher Gilbert

Ombudsman