

The complaint

Covea Insurance plc (“Covea”) voided Ms S’ motor policy when it found that she made a qualifying misrepresentation when the policy was inception. Ms S thinks it’s unfair her premiums haven’t been refunded.

What happened

Ms S made a claim. When Covea validated the details it found that Ms S hadn’t disclosed a driving offence when taking out the policy. Covea rejected the claim and voided the policy. Covea didn’t refund any premiums.

Ms S thinks this is unfair. Ms S said she made a genuine mistake by not showing the driving offence when she took out cover. Ms S said she thought the penalty on her licence had expired.

Our investigator decided to uphold the complaint. She thought the qualifying misrepresentation was careless rather than reckless or deliberate. She asked Covea to refund the premiums and pay 8% simple interest per annum until the premiums are refunded. Covea didn’t respond, so the case has been referred to an ombudsman.

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.

Covea voided Ms S’ policy and didn’t consider her claim due to a misrepresentation, so I have considered the merits of this complaint from this perspective.

The relevant law in this case is The Consumer Insurance (Disclosure and Misrepresentation) 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 doesn’t 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 must show it would’ve offered the policy on different terms or not at all if the consumer hadn’t made the misrepresentation.

CIDRA sets out several considerations for deciding whether the consumer did not take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

So, I’ve considered Ms S’ circumstances in respect to CIDRA.

Was there a misrepresentation?

I think Covea has been fair in saying there was a misrepresentation by Ms S. She has acknowledged she didn’t provide the correct information

Did the consumer take reasonable care?

I don't think Ms S did show reasonable care. The policy clearly sets out the importance of getting personal information correct. Ms S should've checked when her driving offence expired on her licence.

Did it make a difference to Covea?

Covea has argued the misrepresentation was a qualifying one. Covea has shared its underwriting criteria. It says this proves it wouldn't have insured Ms S if it had known about her driving offence. I've checked the underwriting criteria provided, and Covea have demonstrated that its criteria would've led to them declining cover for Ms S. So, I think it has shown the misrepresentation is qualifying.

Was the misrepresentation careless or reckless / deliberate?

Covea has said it thinks Ms S was reckless, however, it hasn't provided any evidence to prove why this is other than to say it thinks Ms S should've provided the right information.

Ms S has always argued it was a genuine error. It's led to Covea not considering the claim. I think Covea were fair to not consider the claim as it has shown had it known about Ms S' driving history it wouldn't have insured her.

However, I don't think Covea have done enough to show Ms S had been reckless or had submitted false information deliberately, so I think it would've been fairer to classify the mistake as careless.

What remedy is available to Covea given there has been a claim?

I've said Covea were fair in not considering the claim. I would've expected Covea in these circumstances to have voided the policy but refund the premiums Ms had paid. Therefore, as it hasn't done this I require Covea to rectify this. As Ms S has been without this money, I require Covea to add interest at 8% simple per annum from the date the policy was voided to the date the premiums are reimbursed.

My final decision

My final decision is I uphold this complaint. I require Covea Insurance plc to:

- Reimburse the premiums for the policy period, plus interest at 8% simple per annum from the date the policy was voided to the date the premiums are reimbursed.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 8 February 2024.

Pete Averill
Ombudsman