

The complaint

Miss R & Mr L complain that Liverpool Victoria Insurance Company (LV) unfairly cancelled their motor insurance policy for providing false information.

Mr L (Miss R's son) is a named driver on Miss R's policy. I'll refer to Miss R in my decision for ease.

What happened

Miss R arranged for a policy with LV that inceptioned in August 2023. Toward the end of August, she received a letter telling her the policy was going to be cancelled. LV told Miss R it thought she and Mr L had acted dishonestly by providing false information. Miss R says all the questions she was asked when applying for the policy were answered truthfully.

Miss R says she has a new insurance policy now with another provider with her son as the second driver. She says there have been no issues with the new insurer.

In its final complaint response LV says it was maintaining its decision to cancel the policy and retain Miss R's premiums. It says it spoke with both her and her son regarding information provided when the policy was taken out. It says the outcome of its investigation was to cancel the policy due to misrepresentation.

LV says its policy terms allow it to cancel a policy where it's found that Miss R has misrepresented information or attempted to gain an advantage to which she is not entitled. It says its policy terms also say that Miss R may not get a refund of premiums if misrepresentation or fraud is identified.

Miss R didn't think she'd been treated fairly by LV and referred the matter to our service. Our investigator didn't uphold her complaint. He says the business has shown that Miss R had made a misrepresentation when applying for her policy. He thought it had acted fairly according to its policy terms and the relevant law when cancelling Miss R's policy and retaining her premium.

Miss R disagreed and asked for her complaint to be considered by an ombudsman.

It has been passed to me to decide.

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.

Having done so I'm not upholding Miss R's complaint. I'm sorry to disappoint her but I'll explain why I think my decision is fair.

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.

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.

LV says that it believes the policy was set up for the benefit of Mr L. It says the reason he was put down as the named driver was so that the policy would be accepted. LV says a number of different quotes were requested. These were initially with Mr L as the policyholder and Miss R as a named driver. These were declined. The policy was subsequently accepted with Miss R as the main driver.

In its submissions to our service LV refers to the practice of 'fronting'. This is where the main driver and beneficiary of the policy is put down as a named driver to either reduce the premium or ensure cover is provided. Miss R says this wasn't there intention here.

I've read the records LV provided and those sent by Miss R. The notes state Mr L confirmed he had bought the car. but Miss R says they decided to put the policy and V5 logbook in her name as her son wasn't comfortable when driving it. Although she also told LV that he would drive her to work in the car as she didn't drive when working a night shift. LV says it hasn't seen a copy of the V5 logbook to confirm who the owner was. However, it also confirms that it's satisfied with its decision to cancel the policy without needing sight of this information.

LV has provided records of the different quotes that were requested. These show Mr L as the main driver. I've also seen another quote with Mr L and another person listed as drivers.

LV states the quotes where Mr L was named as the main driver were declined. This isn't confirmed in the records it provided. So, I asked LV to provide evidence to show the policy would've been declined with Mr L as the main driver. As well as confirmation of the questions it asked about who would be driving.

LV responded with screen prints showing a quote was declined with Mr L as the main driver. It also shows that clear questions were asked about who the main driver was.

Based on this I think Miss R did make a qualifying misrepresentation. LV has retained her premium, which means it consider the misrepresentation was either reckless or deliberate. I don't think this is unreasonable. It's clear that a number of different quotes were provided. I've considered what Miss R says about her son regularly obtaining quotes because he has an interest in cars. She explains he obtained quotes to see how much top of the range cars would cost to insure. As well as using different locations to see what insurance would cost in well-off areas.

I acknowledge Miss R's comments. But she's required to provide accurate information when applying for insurance. This message was made clear on the website she used. Miss R was either the main driver or she wasn't. If there was confusion about this I would expect her, or her son, to contact LV for clarification. Based on what I've seen I don't think it was unreasonable for the business to conclude Miss R and Mr L had misrepresented information so that insurance cover would be provided. This is because based on the series of quotes that were obtained Mr L was intended to be the main driver. But when no cover was offered

the quote was changed to have Miss R as the main driver.

The definitions section of Miss R's policy defines the main driver as, "*the person that drives your car most of the time*".

Section 12 of the policy terms under the heading "*4 Misrepresentation, fraud and financial crime*" says:

"If you or anyone representing you:

- *Give us misleading or incorrect information to any of the questions asked when applying for or amending this insurance;*
- *Deliberately misleads us to obtain cover, a cheaper premium or more favourable terms;*

We may:

Cancel or avoid your policy (treat it as though it never existed), including all other policies you have with us and apply a cancellation charge

Where fraud is identified, we'll also:

- *not return any premium paid by you;*
- *recover from you any costs you've caused us to pay."*

LV chose to cancel Miss R's policy as of 11.59pm on 5 September 2023 as opposed to avoiding the policy back to inception. Under CIDRA it could've avoided the policy which would likely have had a more detrimental impact on Miss R and Mr L's insurance record. So, I don't think LV's decision to cancel as opposed to avoiding the policy was unfair. Under both the CIDRA rules and LV's policy terms the business is able to retain the premium. So, I don't think it behaved unfairly in this respect either.

I can assure Miss R that I have read her detailed testimony carefully. But the crux of the matter here is that it was incumbent on her and her son to provide accurate information when applying for insurance. Based on the evidence I'm persuaded that LV's decision to cancel the policy for the reason of deliberate or reckless misrepresentation was fair. And the business is able to retain the premium it received in line with its policy terms. I'm sorry that Miss R and her son have been distressed by their experience here. But having considered their complaint, I can't fairly ask LV to do anything differently.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D and Mr R to accept or reject my decision before 1 April 2024.

Mike Waldron
Ombudsman