

The complaint

Mr G has complained that Covea Insurance plc has settled his claim under his motor insurance policy on a proportionate basis, as opposed to paying the full amount due to him.

What happened

Mr G took out a policy with Covea through an insurance broker, who I'll refer to as R, which started on 1 March 2023. He made a claim under his policy in September 2023 after his car was stolen. Covea found out he'd made three claims under a policy he had for his van in 2018 and 2020 when the van was being driven by a named driver. It said he'd failed to take reasonable care not to make a misrepresentation by not disclosing these claims and that it was settling his claim on a proportionate basis. This meant that because Mr G had only paid 65.31% of the premium he would have paid if he'd declared the claims, Covea only paid 65.31% of the full amount due in settlement of his claim.

Mr G wasn't happy about Covea's approach, so he complained. But it wouldn't alter its position. So Mr G asked us to consider his complaint. One of our investigators did this. He said it should be upheld and Covea should pay Mr G's claim in full. This was on the basis he didn't think Covea had shown that Mr G had failed to take reasonable care not to make a misrepresentation when he took out the policy with it.

Covea doesn't agree with the investigator and has asked for an ombudsman's decision. It's said that it was clear on the comparison site Mr G used when he took out his previous policy with another insurer that he needed to disclose the claims. And it thinks this means he did fail to take reasonable care not to make a misrepresentation when he took out the policy with Covea.

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 agree with our investigator that Covea has not shown Mr G failed to take reasonable care not to make a misrepresentation when he took out his policy with it.

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.

And 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.

CIDRA also says a failure by the consumer to comply with the insurer's request to confirm or amend particulars previously given is capable of being a misrepresentation for the purposes of the Act.

The policy Mr G took out with Covea started on 1 March 2023. And he didn't do this through a comparison site. R arranged it for him and sent him a Statement of Fact to check. This means the questions he was asked when he took out his previous policy with a different insurer through a comparison site have no bearing on whether Mr G failed to take reasonable care not to make a misrepresentation when he took out his policy with Covea.

For me to be satisfied Covea was entitled to settle Mr G's claim proportionately as a remedy under CIDRA it needs to show he failed to take reasonable care not to make a misrepresentation by failing to amend the particulars (information) in the Statement of Fact sent to him by R to check. And I don't think Covea has shown this was the case. This is because the Statement of Fact didn't make it clear that claims Mr G had made under a policy for a separate vehicle resulting from an accident where he wasn't driving needed to be included under the section for claims, accidents or losses. Like our investigator, I think this section gave the impression that only claims that involved either of the drivers insured under the policy with Covea needed to be included.

As I'm not satisfied Covea has shown Mr G failed to take reasonable care not to make a misrepresentation, it follows that I do not consider it has a remedy available to it under CIDRA. Therefore, I do not consider it was entitled to settle Mr G's claim on a proportionate basis. And I think it should have settled it in full.

Putting things right

For the reasons set out above, I consider the fair and reasonable outcome to Mr G's complaint is for Covea to settle his claim in full. This means Covea must pay the remaining 34.69% of the full amount due in settlement of Mr G's claim. It must also pay interest on the amount due to Mr G at 8% per annum simple¹ from the date it paid part of his claim to the date of actual payment. This is to compensate Mr G for being without these funds.

My final decision

I uphold Mr G's complaint and order Covea Insurance plc to do what I've set out above in the 'Putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 27 March 2024.

Robert Short
Ombudsman

¹ Covea must tell Mr G if it has made a deduction for income tax. And, if it has, how much it's taken off. It must also provide a tax deduction certificate for Mr G if asked to do so. This will allow Mr G to reclaim the tax from His Majesty's Revenue & Customs (HMRC) if appropriate.