

## **The complaint**

Mr D complains about One Insurance Company (One) charging an additional premium on his motor insurance policy because of a claim recorded by a previous insurer which Mr D says didn't happen and should not have been recorded against him.

Reference to One in this decision includes their agents.

This decision covers Mr D's complaint made to this Service about One as the insurer of his policy. It doesn't cover the insurer (H) of his previous policy, the subject of a separate complaint to this Service.

The decision also doesn't cover issues about the breakdown cover provided as part of Mr D's policy, which Mr D says he raised with One. These issues were not covered in One's final response, so aren't covered in this decision.

## **What happened**

In March 2023 Mr D applied for motor insurance with One through a price comparison website. Accepting the quote provided he took out the policy through the One website (at a premium of £456.13 plus a new business fee of £30).

The following month, after the policy came into force, One wrote to Mr D to say he'd made a misrepresentation when taking out the policy by not disclosing a non-fault claim recorded in February 2023. As a result of the non-disclosure, they'd updated the information to the policy and an additional premium of £150.71 was due, inclusive of a £39 administration fee. One said if Mr D believed the information (about the claim) was incorrect, he should provide proof in writing within seven days. If he did so, within 14 days of the date of the letter, they would remove the fee.

But Mr D said the claim didn't happen and shouldn't have been used by One to increase his premium. He contact One through their web chat facility to challenge the claim recorded against him and send evidence of not having made any claims. However, he had problems with the facility and asked One to email him so he could send the evidence. However he didn't receive an email from One for over two months.

Having thought he'd raised a complaint with One via the web chat and not hearing anything from them after the eight week period businesses have to respond to a consumer complaint, Mr S complained to this Service in June 2023.

He was unhappy at One increasing his premium because of a claim he said didn't happen. He was also unhappy at the difficulties he'd experienced communicating with One, including what he considered a substandard web chat facility and their being slow to respond to emails. He'd found the experience very stressful and the increase in his premium had affected him financially during the cost of living crisis. He wanted One to reduce his premium back to the original level, improve their customer service so it was easier to communicate with them and compensation for what happened.

As One hadn't logged his complaint when Mr D contacted them in April 2023, our investigator asked One to consider Mr D's complaint.

In their final response issued in July 2023, One didn't uphold the complaint. They said when Mr D took out his policy with them online through their website, he'd been provided with the policy terms and conditions prior to payment being taken. One had set up the policy to come into force in April 2023, providing the policy documents through their online portal.

As part of setting up the policy, One said they carried out validation checks, including the Claims Underwriting Exchange Register (CUE) for Mr D's claims history. This showed a claim recorded by H in March 2023 against Mr D. The claim was recorded as 'outstanding' and 'non-fault', with a loss date of February 2023 and cause as 'accident'. As Mr D hadn't told One of the claim when taking out his policy, they'd written to him to say the CUE claim would result in an additional premium. They asked Mr D for proof the claim never happened and if provided they would remove record of it – but they hadn't received any proof.

Based on these points, One concluded they hadn't acted outside their terms of business. But as a goodwill gesture they said they would remove the administration fee of £39 (for a change to the policy) and refund it back to Mr D.

Our investigator didn't uphold the complaint, concluding One didn't need to do anything more. They'd relied on an entry on CUE input by H. So, if Mr H had an issue with the accuracy of the entry, it was something he'd need to take up with H (not One). The web chat exchange correctly advised Mr D of this. H's letter to Mr D setting out his No Claims Discount (NCD) entitlement included mention of a recent claim or being in the process of claiming and that the NCD might be reduced as a result. The letter also set out Mr D's responsibility to check a [future] insurer would accept the NCD before taking out a policy with them.

But it was fair of One to waive the administration fee that would otherwise be charged because of the change to the policy. On the issues Mr D had with the web chat facility, while Mr D was unhappy, it wasn't the role of this Service to tell businesses how their processes should operate. One had acted in line with their processes (online with web chat).

Mr D disagreed with the investigator's conclusions and requested an ombudsman review the complaint. He hadn't made a claim, so the record of it shouldn't be used to increase his premium on his policy with One. One hadn't emailed him the link to provide evidence of his NCD, as they'd promised to do on the web chat with them. So, they hadn't communicated with him as he'd requested. He didn't know how to use the online portal, which is why he requested an email with the link so he could upload the evidence of his NCD,

### **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.

My role here is to decide whether One have acted fairly towards Mr D.

The key issue in Mr D's complaint is whether One acted fairly in charging an additional premium for his policy because of the claim recorded against him on CUE. Mr D maintains the claim didn't happen and so One shouldn't have charged an additional premium. One say they reflected the claim recorded on CUE which wasn't included in the information provided by Mr D when he took out the policy. If he could provide proof the claim was incorrectly recorded (or other proof of his claims history or NCD) they would amend the information. Mr D is also concerned at how One operate and difficulties with their web chat facility and lack of email communication, even though he asked them to communicate this way.

On the first issue, I've looked at the Statement of Fact document recording the information Mr D provided when taking out his policy, Section 6 Insurance History includes a heading *Accidents and losses* which states:

*"Please show below any accidents, thefts or losses (irrespective of blame and whether a claim resulted) which you or any other person who will drive have been involved in within the past 5 years"*

The response to the question is recorded as *"None."*

And looking at the question Mr D was asked on the comparison website when taking out his policy, the question invites a 'yes or no' answer to the following question:

*"Have you had any motor incidents, claims or losses in the past five years, no matter who was at fault or if a claim was made?"*

An explanatory note adjacent to the question reads:

*"It is really important to tell us about any claims (including unsettled claims), accidents or losses that are motor vehicle related."*

So, I've concluded Mr D was asked a clear question, that any accidents, claims or losses had to be declared – regardless of fault or whether a claim was made. I appreciate Mr D says he didn't make a claim under his previous policy, simply an 'enquiry', but the wording above indicates any accidents or losses must be disclosed, even if a claim wasn't made.

This isn't consistent with the details of the claim recorded on CUE as set out above, which sets out a 'non fault' and 'outstanding' claim.

As an insurer, One are entitled to validate the details provided by a consumer when taking out a policy and this will typically include checking the consumer's claims history as recorded on the CUE to check whether it matches what a consumer says about their claims history when taking out a policy. Claims history is an important factor for insurers when deciding whether to provide cover under a policy and the terms on which they are prepared to offer cover, including the premium as a reflection of the assessed risk presented by the consumer (the claims history will be a significant factor in an insurer's assessment of risk).

One's *Data Protection Notice* also makes it clear they 'process information to administer, incept, change, renew or cancel a motor insurance contract'. The information they receive includes data about claims history and that (under *Section 3 – How We Will Use Your Information*) the data will be used to:

- *"make decisions about whether to provide insurance*
- *determine the terms and premium for an insurance policy...*
- *verify the information provided including the claims history of persons named on the policy now or in the future..."*

Information provided by One also indicates the importance of reviewing the Statement of Fact document and informing them of any changes, and where incorrect information is provided (or subsequently found to have been provided) – a misrepresentation – One can charge an additional premium for the amendment to the policy resulting from the correct information (if the additional premium is less than £200 – as in this case). Which is what One did, when they became aware of the CUE entry of the outstanding claim relating to Mr D.

In their letter to Mr D in April 2023 setting out the need for an additional premium, One refer to Mr D having made a misrepresentation (not declaring the claim).

The relevant legislation here is the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). Under CIDRA, consumers must take reasonable care not to make a misrepresentation when taking out an insurance policy. If a consumer doesn't do this, an insurer has various remedies where CIDRA for a 'qualifying' misrepresentation (which means the insurer would have offered the policy on different terms, or not at all, had it not been for the misrepresentation). The remedies vary according to whether the misrepresentation was deliberate or reckless, or careless.

I've concluded Mr D was asked a clear question and made a misrepresentation when answering 'no' ('none' in the Statement of Fact). One's decision to charge an additional premium indicates they would have offered the policy on different terms but for the misrepresentation, meaning it was a qualifying misrepresentation. And the remedy (of an additional premium) indicates they considered it to be careless – not deliberate or reckless.

Taking these points together, I've concluded it was reasonable for One to use the information recorded on CUE about Mr D's claims history to reassess the terms of Mr D's policy, including the premium. It was also reasonable to treat the non-disclosure of the claim as a qualifying, careless misrepresentation, entitling them to apply the remedy of offering the policy on different terms (an additional premium).

Mr D provided a letter from H, issued on the day after his policy with them ended, setting out his No Claims Discount (NCD). As well as confirming the dates between which the policy was in force, the letter states – against a heading *Number of years no claims discount* – a statement '9 or more'. While this might seem to indicate Mr D's NCD entitlement, immediately above the table setting this out there's the following text:

***"Important: You've recently had a claim with us, or are in the process of claiming, the no claims bonus shown may be reduced as a result of this. Please consider the date the letter was generated against the closure date of your claim before using it as proof for another insurer."***

The letter goes on to state:

***"It's your responsibility to check an insurer will accept your no claims discount before you take out a policy with them."***

Taking these points together, I've concluded that while the letter indicates 9 or more years' NCD, the caveat about a recent claim qualifies this and makes it clear the NCD could be affected by the outcome of the claim and its subsequent closure. Given the date of the claim recorded on CUE (the date of loss (accident) is recorded as the end of February 2023, just over a month before the NCD letter was issued) it's likely the claim would not have been finalised in that time, depending on the nature of the claim.

I've also looked at the record of the web chat between Mr D and One in April 2023 where he challenges their letter saying there was an undisclosed claim and charging an additional premium. Specifically on the issue, Mr D says he has been charged extra with no satisfactory explanation. The web chat advisor tells Mr D they've found an undisclosed, outstanding non-fault claim recorded in late February 2023 and they've amended the policy details to reflect the claim. Mr D says he didn't make a claim (just an enquiry) so One were using incorrect information.

The advisor tells Mr D he should contact his previous insurer (H) to obtain proof the claim doesn't exist – to which Mr D says he has a NCD letter from H. The advisor says if Mr D can get proof from H about the claim [not existing] and provide it to them over the web portal (a link is provided) they can review the policy information and remove the claim. But they can't remove the additional premium without proof from H. Mr D asks for the link to be emailed to him, before ending the web chat.

Given these points, I've concluded One acted fairly and reasonably in reflecting the claim recorded on CUE and its impact on their willingness to continue providing cover under the policy but reassessing the risk and calculating an additional premium.

I've then considered the issue of the difficulties he'd experienced communicating with One, including what he considered a substandard web chat facility and their being slow to respond to emails.

Having looked at the record of the web chat in the context of the issue of the additional premium and undisclosed claim, from the perspective of the communication between Mr D and One, it's One's decision how to operate their business, including through web chat rather than phone or other media (including email). It isn't for this Service to tell a business how their processes should work.

I appreciate what Mr D says about what he feels is the unsatisfactory nature of One's web chat, but from my conclusions above, I think the record of the web chat confirms One's position on the undisclosed claim and that they provided a link to the portal they said he could upload any documents to prove he hadn't made a claim (or otherwise show the CUE entry from H was incorrect). The same link was also provided to Mr D in One's letter telling him about the additional premium.

Mr D says he asked One to email him the link but didn't do so despite having promised they would. However, while the web chat shows Mr D made this request, it doesn't indicate One agreed to do this (Mr D ended the web chat after making his request). So, One didn't make any promise to email the link. And as I've said, Mr D already had the link in the letter One had sent to him.

Mr D also says the portal didn't work, so he wasn't able to send proof of his NCD entitlement to One. While this isn't something that would fall into the scope of this decision, as it hasn't been considered by One in the first instance, I'm not persuaded even had Mr D used the portal to upload evidence of his NCD – which, in the absence of any other evidence or information I've seen, I take to be the letter from Hastings after his policy with them had ended – it would have made any difference to One's decision.

I say that because of the caveat in the letter about a recent claim and needing to check an insurer will accept the NCD before taking out a policy. Taken with the entry on the CUE by H – which Mr D would need to take up with H – I've concluded it likely One would still have acted in the same way to revise the terms of the policy to charge an additional premium. And having seen their underwriting guidelines, they indicate that even a 'notification only' and 'non fault' ['outstanding'] claim would lead to an increase in premium. So, for these reasons, I've concluded One haven't acted unfairly or unreasonably towards Mr D, either in using the CUE entry to calculate and charge an additional premium or in their service to Mr D. So, I won't be asking them to take any action.

### **My final decision**

For the reasons set out above, it's my final decision not to uphold Mr D's complaint.

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

Paul King  
**Ombudsman**