

## **The complaint**

Ms P and Mr W complain Tradex Insurance Company Limited unfairly removed her from a motor insurance policy and declined her claim.

Tradex's been represented by an agent for the claim and complaint. For simplicity I've referred to the agent's actions as being Tradex's own. Mr W is the main policy holder with Ms P as a named driver. Both have provided submissions. But for simplicity and as the treatment of Ms P is the main focus of the complaint I've mainly referred to her.

## **What happened**

In September 2023 Mr W took out a trade motor insurance policy. Ms P was listed as a named driver. In November 2023 the vehicle was involved in a collision whilst being driven by Ms P. A claim for the loss was made against the Tradex policy.

However, Tradex decline the claim and removed Ms P from the policy. Initially it said she had failed to inform it of a change in her circumstances - her employment status. It said it had been declared, when the policy had been taken out, that she was employed as a management consultant when she was unemployed.

In response to a complaint Tradex maintained that there had been a misrepresentation when the policy was taken out. She was unemployed at the time but had been incorrectly declared as employed as a consultant. So it maintained its decision to remove her from the policy and decline the claim. Tradex did accept some customer service failures. In recognition it offered £300 compensation.

Ms P didn't accept that, so referred the complaint to the Financial Ombudsman Service. She doesn't accept Tradex's reasons for declining the claim as valid. She says her employment status had no impact on how she drove the car. She considers Tradex's position that it wouldn't have offered cover if it had known she was unemployed to be discriminatory. To resolve her complaint she wants it to put her back on the policy and reimburse the cost of repairs.

Our Investigator considered Tradex had acted fairly - and in line with the relevant legislation Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). So she didn't recommend it settle the claim or reinstate Ms P on the policy. As Ms P didn't accept that outcome the complaint was referred to me.

## **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.

As this is an informal service I'm not going to respond here to every point or piece of evidence Ms P and Tradex have provided. Instead I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted.

The relevant legislation for me to consider is the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). CIDRA gives insurers the ability to take certain action, like avoiding a policy, if a 'qualifying misrepresentation' has been made.

The insurance was arranged by a broker acting on Mr W and Ms P's behalf. It passed on information to Tradex on their behalf. I've first considered if there was a misrepresentation. I haven't seen the questions Tradex asked the broker, or how the relevant information was given by it to the Tradex.

However, I've seen the relevant questions asked of Mr W and Ms P by the broker when the policy was taken out. I've also seen the policy schedule. Based on that evidence I'm satisfied Tradex wanted to know about Ms P's employment status. And I'm satisfied a question along the lines of 'what's their main employment status?' was asked.

Tradex says employed was provided as an answer. And after that follow up answers on role and industry were provided to relevant questions. Ms P said she was made redundant a few months before the policy was taken out. However, she accepts the answer of 'employed' was given.

I've considered Ms P's comments about how she was only recently out of work and looking for further employment. But she was unemployed at the time the policy was taken out. So giving the answer employed with a specific role and industry was a misrepresentation of her position.

So it's fair for Tradex to say there was a misrepresentation. But for it to take any action, like removing Ms P from the policy and declining the claim, there would need to be a 'qualifying misrepresentation'. For that a few things are required. Firstly there must have been a failure to take reasonable care not to make the misrepresentation.

CIDRA sets out several things to be considered when deciding if a consumer took reasonable care not to make a misrepresentation. One is how specific and clear the questions asked were. Another is any relevant explanatory material.

I've considered Ms P's explanation for stating she was employed and providing specific role and industry. In essence she had recently been made redundant and was looking for her next position. She still considered herself part of the workforce at the time.

However, Tradex wanted to know if she was in employment. I'm satisfied the questions asked were clear enough. Whilst I have some sympathy for Ms P's considerations, and I don't feel she was trying to deliberately mislead, I feel it's fair to say there was a failure to take reasonable care to not to make a misrepresentation.

Tradex also needs to show that without the misrepresentation it wouldn't have offered cover - or would have only done so on different terms. It's provided evidence of its underwriting criteria. I've considered Mr W and Ms P's claim that it does provide cover to the unemployed. However, I'm satisfied from its evidence, that had the misrepresentation not been made it wouldn't have offered cover with Ms P as a named driver. So it's reasonable to say there's been a qualifying misrepresentation.

In the circumstances CIDRA allows Tradex to treat the policy as if it had been provided on those terms - ie without Ms P as a named driver. So I consider Tradex's decision to remove her from the policy from the date of its inception to be fair and reasonable. It follows that I find it reasonable for it not to provide cover for damage to the car that occurred when she was driving.

Ms P feels Tradex is discriminating against the unemployed. It's for Tradex to decide its own risk appetite, taking into account relevant legislation and rules, when setting its underwriting criteria. In addition employment status isn't a protected characteristic under The Equality Act.

Tradex accepts it provided incorrect information about the repair authorisation. However, I can't say Mr W and Ms P lost out financially as a result. As the claim was fairly declined, they would always have had to cover the cost of the repairs regardless of any incorrect information from Tradex. And I'm satisfied the £300 compensation already offered is enough to recognise the impact of any poor service.

### **My final decision**

For the reasons given above, I don't uphold Mr W and Ms P's complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P and Mr W to accept or reject my decision before 19 July 2024.

Daniel Martin  
**Ombudsman**