

## **The complaint**

Mr M complains that First Central Underwriting Limited charged him an additional premium on his car insurance policy.

First Central is the underwriter of the policy in question. Reference to First Central includes its agents.

## **What happened**

In August 2023, Mr M applied for a policy via a price comparison website. The policy provided cover for Mr M as the policyholder, as well as a named driver (ND). Mr M paid for the policy in monthly instalments.

First Central carried out checks after the policy started and in September 2023, it asked Mr M for proof of his no claims discount (NCD) and information about the ND's claims history.

In October 2023, First Central removed the NCD from Mr M's policy, and added details of an accident ('the accident') from January 2020 for the ND. It charged Mr M an additional premium of £302.09.

In January 2024, following contact from Mr M, First Central added the NCD back on Mr M's policy. First Central refunded the previous additional charge of £302.09. But because the accident remained on the policy, First Central charged Mr M an additional £91.07, which included a £50 administration fee.

Mr M complained in January 2024. He felt the NCD proof was uploaded around September/October 2023 and that First Central was aware of the accident, as the ND was an existing policyholder on a different policy with First Central. Mr M was unhappy with the additional premium he was charged.

First Central issued a complaint response in January 2024. It said it hadn't received the information it asked for and this is why it charged an additional premium initially. But after Mr M provided his NCD proof, the only additional premium charged was for the accident. First Central said if Mr M didn't wish to pay the additional premium, he could cancel the policy under the rules that apply, and it would waive any cancellation fee.

Mr M remained unhappy and referred his complaint to the Financial Ombudsman Service. He felt First Central had the information it needed, and the initial policy premium shouldn't have changed. He wanted a refund of the additional amount he was charged.

After the complaint was referred to this Service, First Central made an offer in March 2024, to reimburse the £50 administration fee it charged. This would leave only £41.07 as the additional amount Mr M would have been charged on top of the original premium from August 2023.

Our Investigator felt First Central's offer was fair. He said that First Central had deviated from the rules that applied, in charging the additional premium without giving Mr M a choice.

But he felt that its offer to refund the £50 administration fee, left Mr M in a position that was fair in the circumstances.

Mr M didn't accept. He said he gave all the correct information when he took the policy out, and that First Central should be aware of the ND's claims history. He said he uploaded all the information in time and didn't agree to any increase in his premium.

In April 2024, our Investigator told Mr M if he didn't accept the increase in the policy premium, he had the choice to agree a reduction on any future claim payments on a pro-rata basis. Mr M didn't respond to say he'd like to opt for this. Instead, he said he uploaded the correct details of the accident in time.

Because the complaint couldn't be resolved, it's 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.

Under the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA), Mr M had a duty to take reasonable care not to make a misrepresentation when he applied for his insurance policy. And, for the insurer to take any action at all, it needs to show Mr M didn't do this and that he made what's described as a qualifying misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. One of these is how clear and specific the insurer's questions were. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate, reckless or careless.

This complaint concerns Mr M's actions when he took out the policy in August 2023, via a comparison site. The insurance intermediary passed on the information Mr M provided, to First Central. On the matter of whether Mr M failed to take reasonable care, CIDRA sets out a number of things to be considered, one of which is the questions the consumer was asked.

First Central has sent us evidence of the application Mr M would have gone through, and I can see he was asked the following for the additional driver (ND):

*'Have they had any motor accidents, claims or losses in the past 5 years, no matter who was at fault or if a claim was made?'*

In light of the above, I think the question Mr M was asked was clear. And Mr M's statement of fact from August 2023 shows this question was answered 'no'. I've not seen evidence to show Mr M told First Central about the accident when the policy was taken out. It is not disputed the ND had an accident in January 2020, so I think it's fair to say Mr M failed to take reasonable care when answering this question.

Mr M said the ND was a policyholder with First Central, so it knew about her history, but I don't expect First Central to cross reference policyholders at the time of the application. First Central is entitled to rely on the information it is provided with. And for the reasons outlined above, I don't think Mr M took reasonable care in answering 'no' to the question he was asked. I accept Mr M didn't do this recklessly or deliberately, and CIDRA would consider this to be a careless misrepresentation. In not avoiding the policy, I think First Central treated the misrepresentation as careless, and I don't think this was unfair.

First Central has also said the information about the accident would have changed the

premium it charged in August 2023. I have no reason to doubt this, so I'm satisfied the misrepresentation was a qualifying misrepresentation.

CIDRA sets out what an insurer may do in such a situation. This includes an insurer being able to:

- Tell the consumer that it will settle any future claims on a proportionate basis (or apply other exclusions or limitations it would otherwise have applied). But if the consumer isn't happy with that approach, they can cancel the policy themselves.

So CIDRA doesn't allow an insurer to simply impose an additional premium, as First Central did here. But we don't think it's unreasonable for an insurer to highlight the issues it found, and give the policyholder the option of paying the additional premium, in order to keep the policy going, or otherwise cancel it themselves.

So First Central acted unfairly in imposing the additional premium (including the administration fee). And it could have, if it wanted to, given Mr M the option to pay the additional premium in order to keep the policy going, or otherwise cancel it himself. But First Central, was not required, under the rules, to allow Mr M to continue with his policy, without any further premium charged, and without any impact on any future claims he may have made on the policy.

I'm conscious that First Central informed Mr M of his right to cancel the policy in its final response in January 2024, but he didn't choose to do this. I'm also conscious that our Investigator informed Mr M in April 2024, he had the choice to accept the settlement of future claims on a pro-rata basis, but he didn't choose to do this. So I think what Mr M always wanted, was to keep the policy running, without any further premium, and without any future claims being settled on a pro-rata basis. But for the reasons outlined above, this isn't something he was entitled to.

With this in mind, I think if First Central had made Mr M aware his only options were to cancel the policy, have any future claims settled on a pro-rata basis, or continue cover in full for an additional premium of £41.07, he'd likely have chosen the last option. So on this basis, I think First Central's offer to refund Mr M the £50 administration fee, is fair and reasonable in the circumstances, and I won't require First Central to do more than this.

Mr M said he provided First Central with the information in time. I've explained above why I don't think he did this when he took the policy out in August 2023. And I've not seen sufficient evidence to show he provided First Central with the NCD proof or accident information, prior to January 2024. In any case, First Central refunded the costs associated with the NCD, and the only remaining cost charged to Mr M was for the accident information, which I've dealt with above.

### **My final decision**

My final decision is that I uphold this complaint and require First Central Underwriting Limited to:

- Refund Mr M the £50 administration fee it charged, if it hasn't already.

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

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**Ombudsman**