

## **The complaint**

Mr B complains that First Central Underwriting Limited (FCUL) increased his premium.

## **What happened**

Mr B took out a motor policy with FCUL through a price comparison site. FCUL said Mr B had answered the question it asked about his no claims discount incorrectly. FCUL considered this to be a misrepresentation, so it to ask Mr B to pay more for his policy.

Mr B complained about FCUL's decision. In response to Mr B's complaint, FCUL offered a £50 discount on the additional premium payable. FCUL also said if Mr B wanted to cancel his policy he could do so, and FCUL would process this request in line with The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). FCUL also offered Mr B £50 compensation for not offering the option to cancel the policy sooner.

Mr B brought his complaint to us, and our investigator thought it should be upheld. The investigator said the evidence didn't support FCUL's position that there had been a misrepresentation. The investigator said FCUL should refund the additional premium taken from Mr B incorrectly, add 8% simple interest per annum pro-rata to this amount, and pay Mr B an additional £200 for the upset caused.

Mr B accepted the investigator's findings. FCUL didn't agree, saying the price comparison site couldn't list everything, and the onus was on Mr B to check his circumstances with FCUL before purchasing his policy. FCUL asked for an ombudsman's decision.

## **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.

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.

FCUL thinks Mr B failed to take reasonable care not to make a misrepresentation when he stated in his online application that he had two years no claims discount (NCD). I've looked at the question Mr B was asked when he completed the application. The question for no

claims discount says *'How many years of no claims discount (NCD) do you have?'* The statement below the question explained *'You build NCD for each year you hold a policy in your name, without making a claim. It can only be used on one vehicle at a time and not all providers will accept NCD earned on a van or a bike.'* The question also included an additional statement in a separate pop up box, including two paragraphs explaining more about NCD. But I can't see that any of the information on the website explained that NCD should not be included if earned whilst working as a taxi driver.

I note the explanatory paragraph says *'If you are unsure whether your NCD is applicable, please check with your chosen provider before purchasing.'* And I've carefully considered FCUL's comments about what Mr B ought to have done in the circumstances. But having considered the information presented, and whether Mr B took reasonable care when answering the question, based on the evidence I've seen, I'm persuaded he did.

The online application process asked Mr B to confirm how many years of no claims discount he has. Mr B answered this question, and I'm satisfied he did so with reasonable care. I say this because the question made no mention to occupations that would be discounted, or alerted Mr B to factors he should consider before answering the question. The standard of care is that of a reasonable consumer. Having considered the question presented, and Mr B's response, I'm persuaded Mr B took reasonable care in providing a response. It follows that the actions taken by FCUL are unfair, and FCUL has no remedy under CIDRA.

Mr B has described the impact on him as a result of FCUL charging him an additional premium, and taking this money from his account without him authorising this payment. I thank Mr B for taking the time to provide details about his personal circumstances at the time. This information was also shared with FCUL, and it is evident Mr B was going through a difficult period in his personal life at the same time as dealing with the premium collection by FCUL without his consent.

Having considered what's happened, I'm in agreement with the investigator's recommendation for FCUL to pay Mr B £250 compensation in recognition of its error, and the impact on Mr B. This amount recognises the money taken from Mr B's account without him authorising it, and the stress caused to Mr B because of FCUL's decision to charge him an additional premium, when it shouldn't have. If Mr B has already received the £50 previously offered by FCUL, FCUL is directed to pay an additional £200 only.

I note Mr B also requested the option to cancel his policy in future without cancellation charges being applied. Any future cancellation should be considered by FCUL in line with the terms and conditions of Mr B's policy.

### **Putting things right**

FCUL is directed to:

1. Refund the additional premium taken from Mr B;
2. Pay 8% simple interest per annum pro-rata to this amount, from when the additional premium was taken to when it is refunded;
3. Pay £250

### **My final decision**

For the reasons set out above, I've decided to uphold Mr B's complaint. First Central Underwriting Limited is directed to settle this complaint as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 12 July 2024.

Neeta Karelia  
**Ombudsman**