

## **The complaint**

Mr B complains that Accelerant Insurance Europe SA/NV UK Branch voided his policy and refused to pay his claim for his stolen caravan.

My references to Accelerant include the businesses that act on Accelerant's behalf.

Mr B is represented in this complaint by his wife but for ease of reference I'll just refer to Mr B.

## **What happened**

In May 2023 Mr B took out insurance for his caravan on-line. Accelerant is the insurer. A couple of months later Mr B's caravan was stolen from where it was stored and he made a claim.

Accelerant wouldn't pay the claim. During the policy on-line application Mr B was asked how many years he'd had claim free caravanning and he answered '5+years'. As part of the claim assessment Mr B told Accelerant he had never held caravan insurance before this policy so Accelerant said Mr B's answer about claim free caravanning should have been entered as '0 years'.

Accelerant said that if Mr B had answered the question correctly it would never have offered him a policy. It voided the policy and kept the policy premium. Voiding the policy meant in effect the policy never existed so Accelerant refused to pay the claim.

Mr B complained to us. He said dealing with the claim had been very stressful. He never told Accelerant that he had caravan insurance before this policy, the claim was for a lot of money and he had to constantly ask for updates. Mr B wants Accelerant to pay his claim.

Our Investigator considered that Mr B took reasonable care in answering the question asked when applying for the policy, so Accelerant had unfairly voided the policy. He recommended that Accelerant reinstate the policy and reconsider the claim in line with the remaining policy terms and conditions. Also, Accelerant should pay Mr B £250 compensation for his unnecessary distress and inconvenience it had caused.

Accelerant's response in summary said:

- While there may be ambiguity with the on-line application question, the questions and answers were confirmed in Mr B's call with the broker. It noted Mr B had said he was dyslexic but he had the opportunity in the call to raise anything he didn't understand.
- The on-line application question had an information button, which clarified what it needed to know. Mr B could have clicked on the information button (which had a question mark symbol) and that would have provided additional information.
- Our Investigator's suggestion that it details to consumers all instances where it wouldn't give cover wasn't practical and wasn't usual practice in home or motor policies.

Our Investigator explained why Accelerant's responses didn't change his mind. As there's no agreement the complaint has come 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.

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.

If a consumer fails to take reasonable care, 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.

Accelerant thinks Mr B failed to take reasonable care not to make a misrepresentation when he incorrectly answered the policy application question about how long he'd had claim free caravanning.

I've looked at the questions Mr B was asked in the on-line policy application that Accelerant sent us. I've also listened to the call the broker made to Mr B. CIDRA says a consumer needs to take reasonable care not to make a misrepresentation to an insurer when taking out insurance and an insurer needs to ask the consumer clear questions about the information it wants to know.

The first question Mr B was asked was:

*'In the last 5 years have you had any accidents/losses, sustained any damage or liability with any caravan owned, hired or used by you whether insured or not'.*

Mr B answered 'No' to this question. Given the question related to both insured or uninsured caravanning, there's no issue here and Mr B answered correctly.

The next question is the relevant one for which Accelerant said Mr B misrepresented his position. He was asked:

*'How many years have you been claim free caravanning?'*

Accelerant says Mr B should have chosen the drop-down box to answer '0' as he hadn't held caravan insurance previously. Instead Mr B chose the drop-down box to answer '5+ years'. I think Mr B answered the relevant question with reasonable care. In the 'Statement of Claimant' made to the claim assessor Mr B said he's been caravanning for 15 years. So he had claim free caravanning for 15 years as he hadn't been insured for his caravan before (for reasons which are set out in his statement).

I acknowledge that the question mark symbol next to the relevant question, if clicked, says Accelerant wants to know the '*number of years claim free caravanning you have on your current caravan policy*'. But given the way the question is structured, I don't think Mr B would

have thought he had to click on the question mark. Accelerant hasn't provided evidence that Mr B had to click on the question mark to be able to continue with the application.

Accelerant told us that it doesn't offer the policy to consumers who don't already have claim free caravan insurance. I think the question Accelerant asked wasn't clear enough about the information it wanted from Mr B. It's not clear enough for Accelerant to only give clarification about what it's asking for under a question mark symbol which may or may not be clicked to read.

I also note that in Accelerant's internal file there appears to be some acknowledgement that the relevant question wasn't as clear as it could be.

Accelerant's offer of this policy being dependent on whether or not Mr B already had claim free caravan insurance is a significant fundamental requirement for whether or not he was eligible for the policy. It's reasonable to highlight the requirement to a consumer. But Accelerant's provided no evidence that the requirement is highlighted in the policy application process. It's not shown us the requirement is in the policy document, although other eligibility requirements for cover are set out. Accelerant's not shown us the requirement is in the 'Proposal/Statement of Fact' notice it asked Mr B to read. So I think Mr B reasonably didn't know he needed to already have claim free caravan insurance to get this policy. To be clear, I'm not saying that all policy exclusions need to be highlighted as part of the policy application.

Accelerant's internal file says Mr B told it that he wasn't very good at reading and writing. It's final response letter to Mr B says it *'appreciate(s) that you may not have understood the question being asked regarding claims free caravanning'* then goes on to say he could have sought clarification from the broker. But I think Mr B had no reason to suspect his answer to the relevant question was incorrect and I think it's understandable he didn't seek clarification.

I've listened to the call the broker made to Mr B. The broker told Mr B he'd called about potentially getting Mr B a cheaper price for the policy and as part of that process the broker went through the answers Mr B had given in the on-line application.

The call is rushed and the broker very quickly reads to Mr B all the questions and answers from the on-line application. The broker read the relevant question and answer while Mr B was still talking about the previous question. The broker didn't give Mr B clarification about what Accelerant really wanted to know for the relevant question and, as I've said, I don't think Mr B had reason to suspect his answer was incorrect. Mr B did ask for clarification about another question and even told the broker that his first name wasn't the abbreviated version of the name which he'd originally put on the application. So I think Mr B was taking care to ensure that he gave Accelerant the correct information.

As I'm satisfied that Mr B took reasonable care in answering the relevant question Accelerant asked him when applying for the policy he didn't make a misrepresentation. That means Accelerant voiding the policy is unfair and not in line with CIDRA.

Accelerant must reinstate the policy (I understand it never refunded the premiums) and reconsider the claim in line with the remaining policy terms and conditions.

I think Accelerant unfairly handled this claim. Its internal file shows it had doubts about the clarity of the relevant question but it still voided the policy. And Mr B had to chase it several times for information, the call recording, which was important for his complaint. Accelerant should pay compensation for Mr B's distress and inconvenience due to its unfair claim handling. It didn't comment on our Investigator's recommendation to pay Mr B £250 compensation and I think that's a reasonable amount in the circumstances.

### **My final decision**

I uphold this complaint and require Accelerant Insurance Europe SA/NV UK Branch to:

- Reinstatement of the policy and reconsideration of the claim in line with the remaining policy terms and conditions, and
- Pay Mr B £250 compensation for his unnecessary distress and inconvenience it caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 14 November 2024.

Nicola Sisk  
**Ombudsman**