

The complaint

Mr M has complained about the total loss settlement Covea Insurance plc reached to settle a claim he made under his car insurance policy. He also complains that Covea unfairly applied a deduction to the settlement for misrepresentation.

What happened

Mr M bought a car insurance policy online through a comparison website in 2021. He renewed his policy in subsequent years with the same broker.

In October 2023 Mr M made a claim to the insurer, Covea and it settled the claim by paying Mr M a total loss settlement.

Covea discovered that Mr M hadn't disclosed a speeding conviction when he bought the policy with Covea. So Covea calculated the difference in premium Mr M would have paid, had he disclosed it. The difference in premium was 28.2%.

So, in line with relevant law relating to misrepresentation, Covea made a deduction of 28.2% from the valuation it paid Mr M.

Mr M complained to Covea about the valuation and the decision to make a deduction. He said he disclosed the speeding conviction and was advised it wouldn't make a difference to the premium.

Covea said its decision to apply a deduction was fair. But in June 2024 it reviewed the total loss settlement it reached as a starting point. Having done so, it increased the amount and paid the difference to Mr M.

Our Investigator thought Mr M's complaint should be upheld in part. She thought Covea's decision to apply a deduction for misrepresentation was reasonable. But she thought the starting point valuation Covea had decided on wasn't fair, including the revised valuation in June 2024. So she recommended Covea increase the total loss settlement, apply a deduction of 28.2%, and pay the difference with interest at a rate of 8% simple interest a year.

Mr M acknowledged the Investigator's findings. Covea didn't respond.

So as Covea hasn't replied, the case has 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.

Covea unfairly applied a deduction to the total loss settlement for misrepresentation

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.

Covea says Mr M failed to take reasonable care not to make a misrepresentation when he didn't tell it about a speeding conviction. I've found no evidence to show that Mr M did tell Covea. If Mr M believes he told the broker, he will need to contact the broker.

When Mr M renewed his policy in July 2023, it was his responsibility to let Covea know if anything wasn't correct.

The Statement of Insurance read;

"Please read the following information carefully. Please advise us immediately on (phone number inserted here) should any of the information be incorrect or missing. If we become aware of any changes to the information stated in this Statement of Insurance then we will update your policy and advise you of any change to your premium or to the terms that the insurer requires and send you a new Statement of Insurance. Failure to disclose correct and complete information to the best of your knowledge and belief may result in increased premiums, refusal of a claim or not being fully paid, your policy being cancelled or being made null & void and treated as if it never existed."

Mr M's Statement of Insurance shows no disclosed motoring convictions, driving licence endorsements, or penalties for the previous five years.

So I think Mr M failed to take reasonable care as it was for him to let Covea know if anything was incorrect or missing.

Covea has provided evidence to show it would have applied a 28.2% increase to the premium Mr M paid if he had disclosed the speeding conviction. This makes it a qualifying misrepresentation.

As Covea has agreed to meet a proportionate amount of Mr M's claim, it has treated the misrepresentation as careless and acted in line with CIDRA which I agree is fair.

So I'm satisfied that Covea has acted reasonably in applying a proportionate deduction to the claim. The deduction reflects the percentage difference in the premium Mr M paid before Covea was aware of the speeding conviction.

Covea didn't pay a fair market value when settling Mr M's claim as a total loss

We can look at whether an insurer reached its valuation reasonably and in line with the policy.

Mr M's policy with Covea says the most it will pay in the event of a claim is the market value of his car at the time of loss. We have a long standing approach to valuation complaints. We look at the main motor trade guides to find an average price based on the same make, model, age, specification, condition and mileage as Mr M's car. The guides provide valuations based on research and likely selling prices for that month.

As well as providing a trade valuation, the guides provide a 'retail transacted' valuation. This is the amount a customer would likely pay for a similar car at a retail garage.

Covea looked at four of the main motor trade guides and originally reached a total loss settlement valuation of £18,374, this being the average of the guides.

On further review, in June 2024 Covea said it would increase the settlement by £236.22.

Our Investigator checked the main motor trade guides for the month of loss to see if Covea had reached its valuation in a reasonable way. She found that the guides ranged from £17,550 to £20,018. This showed that Covea's settlement sat in the middle of the guides.

We have found that more recently cars sell for close to the asking price. And so unless an insurer can show why it has paid below the higher of the guides, we usually ask it to meet the higher valuation. In this case, the adverts that Covea relied on in association with the guides to pay what it did, are for June 2024, which is several months after the month of loss – so I don't find them to be reliable to support Covea's valuation.

So I think a fairer outcome is for Covea to pay a total loss settlement sum of £20,018 in line with the highest of the guides. As Mr M has lost out, I think Covea should pay interest at a rate of 8% simple interest a year on the difference – minus the proportionate deduction it is entitled to make for misrepresentation. It should pay interest from the date it paid the original settlement, or one month from the date of the incident, whichever is sooner.

My final decision

My final decision is that I uphold this complaint in part. I require Covea Insurance plc to do the following:

- Increase the total loss settlement it paid to £20,018 as a starting point.
- Deduct 28.2% from the total sum to reflect the proportionate increase in premium if Mr M had disclosed his speeding conviction.
- Pay the difference to Mr M with interest.
- Pay interest at a rate of 8% simple interest a year from the date Covea paid the original settlement, or one month from the date of the incident (whichever is earlier) to the date it pays.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 December 2024.

Geraldine Newbold
Ombudsman