

## **The complaint**

Miss M and Mr N complain that One Insurance Limited (One Insurance) unfairly avoided Miss M's motor insurance policy (treated it like it never existed) and refused to pay her claim after her car was stolen.

References to Miss M or Mr N, will include the other.

## **What happened**

Miss M and Mr N took out a motor insurance policy with One Insurance through a price comparison website. Miss M was the policy holder and Mr N, was a named driver. When the car was stolen, Miss M tried to make a claim.

One Insurance said Miss M had answered the question it asked about the registered owner and keeper of the car incorrectly. And it considered this to be a careless qualifying misrepresentation, which entitled it to avoid her policy, decline her claim and return her premiums.

Miss M said she does not remember being asked about ownership of the car either at inception of her policy or when she renewed it. She also said it does not state on the policy documentation who owns the car.

Miss M brought her complaint to us and our investigator thought it should be upheld. He said he didn't think the question about the owner and registered keeper of the car was clear enough and so there hadn't been a qualifying misrepresentation. They said One Insurance were not entitled to take any action under CIDRA as it has done.

One Insurance doesn't agree with the investigator and has asked for an ombudsman's decision. It said Miss M failed to declare the correct information when obtaining the insurance and if she had purchased the cover in her name with Mr N declared as the owner/keeper that cover would not have been offered.

## **What I provisionally said**

*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.*

*One Insurance thinks Miss M failed to take reasonable care not to make a misrepresentation when she stated in her application via a price comparison site in 2021 that she was the registered owner and keeper of the car.*

*I've looked at the question asked and it says, "Are you or will you be the registered keeper and legal owner?" Miss M's response was "Yes."*

*I understand Miss M does not remember being asked this question, but she would have been unable to continue with the online enquiry if a response had not been made. If she had answered correctly "No" then further questions about the registered keeper and legal owner are asked and the correct information could have then been supplied.*

*Miss M also said she contacted One Insurance by online chat in April 2022 because she had found a cheaper motor insurance deal. She said she was sold a new policy and she was not asked about the legal owner and registered keeper. One Insurance said it would not question her on the owner or keeper because the car had not been changed since the policy inception and therefore this information was already declared. Because the details provided at inception were that Miss M was the owner and registered keeper of the car this was the information used for the new quote. I saw in the online chat transcript that Miss M was asked if she needed to change any details. And at the start of the new policy documentation sent in April 2022, it shows this was a renewal of the car insurance policy.*

*Although Miss M said the details of the registered keeper and legal owner are not detailed on the policy information, I have seen the statement of fact documents do show the registered keeper of the vehicle and the owner of the vehicle are both the proposer – which is Miss M. I saw evidence of Miss M accessing One Insurance's online portal at various times and it shows the statement of fact document was downloaded in August 2021 just after the policy was purchased and also in August 2023 after a change of registration had been made.*

*I do understand Miss M and Mr N bought the car together and that they jointly owned the car, but it was Mr N's name on the car documentation as the registered keeper.*

*I don't think Miss M took reasonable care not to make a misrepresentation when she renewed her policy in 2022. She failed to correct the error on the statement of fact that said she was both the owner and registered keeper of the car.*

*One Insurance has provided evidence by way of its underwriting criteria that the policy holder or spouse must be the legal owner and registered keeper of the insured vehicle to be eligible for insurance cover with itself. It said should this have been declared correctly when seeking cover no quotation would have been provided by it.*

*This means I'm satisfied Miss M's misrepresentation was a qualifying one.*

*Miss M says because Mr N is her common law partner this should be seen the same as a spouse. One Insurance explained its reason to accept the risk of a spouse as registered keeper but not a common law partner was based on legal merit of equal ownership. I am unable to tell One Insurance, or any insurer, how to risk rate its policies. It also provided information that showed its criteria is not out of line with the rest of the market.*

*I recognise Miss M and Mr N are long term partners, however it is the policy holder's duty to ensure the information disclosed is true and accurate.*

*One Insurance deemed Miss M's misrepresentation was careless because it didn't think it was deliberate.*

*I agree that Miss M's misrepresentation was careless.*

*Because I'm satisfied Miss M's misrepresentation should be treated as careless I've looked at the actions One Insurance can take in accordance with CIDRA. In this case because One Insurance have shown it would not have offered cover it can avoid the policy from the point of misrepresentation and return the premiums paid. This means it does not have to deal with the claim.*

*In this case One Insurance have avoided Miss M's policy from the renewal in April 2023. And it refunded her policy premiums from this date.*

*I realise this an awful situation for Miss M and Mr N to be in, and that they have incurred a significant monetary loss. I am truly sorry to hear they were a victim of a crime, and I can assure you I have taken the complaint very seriously.*

*However, my role is to decide after considering all the evidence provided to me, if One Insurance have acted fairly under the terms and conditions of the insurance cover. In this case I'm satisfied One Insurance was entitled to avoid Miss M's policy in accordance with CIDRA. And, as this means that – in effect – her policy never existed, One Insurance does not have to deal with her claim following the theft of her car.*

*As CIDRA reflects our long-established approach to misrepresentation cases, I think allowing One Insurance to rely on it to avoid Miss M's policy produces the fair and reasonable outcome in this complaint.*

*I do not intend to require One Insurance to re-instate Miss M's policy and cover her claim for the theft of her car.*

### **Responses to my provisional decision**

Miss M responded and said;

1. The renewal conversation was not by online chat, it was a telephone conversation.
2. The provisional view states the documentation sent in April 2022 shows it was a renewal of the car insurance policy and this is not correct. The documentation confirms it was new business. And because this was new business the onus was on One Insurance to ensure it asked the correct questions. She said One Insurance should have been responsible for checking all facts were correct by asking specific clear questions and she did not believe One Insurance's questions to be specific.
3. The statement of fact was not present on the customer portal throughout her insurance period. She asked for the evidence provided by One Insurance that she had downloaded this.
4. Her policy started in April 2021 so the sentence "she had downloaded this in August 2021 *"just after the policy was purchased"* did not match

One Insurance did not make a response.

### **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.

### **In response to Miss M's comments**

1. The evidence I have relied on is an online chat transcript from 13 April 2022. This transcript was provided as evidence by Miss M and was verified as online chat and not a telephone conversation by One Insurance.
2. Miss M is correct that the policy documentation in April 2022 is recorded as new business. Due to the policy documents being titled *One renewal*, I incorrectly said it was renewal paperwork. However whether a renewal or a new policy this does not make a difference to the rationale in my provisional findings.  
To explain, One Insurance provided a re-quote to Miss M as an existing customer. She accepted this quote and moved from a standard policy to a rolling monthly insurance policy with additional benefits. I have taken into account that the question "*Are you or will you be the registered keeper and legal owner?*" was asked when Miss M took out a policy with One Insurance in 2021. I considered if I would expect this question to be asked again when the re-quote was provided during the online chat of 13 April 2022. One Insurance's agent did ask some specific questions including updates on any accidents, claims or losses, any new motoring or non-motoring convictions, car valuation, annual mileage and also if policy additional extras for breakdown and guaranteed car hire were required. Miss M was then asked, "*Has anything else changed before I quote it through.*" Her response to this was "*nothing.*" Because One Insurance was re-quoting for motor insurance cover for the same car I don't think the questions about the registered keeper and legal owner needed to be asked as a specific question again. I think One Insurance took reasonable care with the questions it asked when it provided a requote for Miss M.  
It is Miss M's responsibility to check the details of her policy are correct. The statement of fact for the policy that started in April 2022 and statement of fact documents issued after this date including the one issued on 16 August 2023, just prior to the incident, state the registered keeper of the car is the policy holder - Miss M, and this is incorrect.
3. The portal shows the statement of fact was present throughout Miss M's insurance period. The evidence requested has been provided to Miss M.
4. The policy started in April 2021 and the evidence shows the statement of fact was downloaded on 17 August 2021. This was after the policy started – I agree it was not *just* after.

Again, I really am sorry that Miss M and Mr N were the victim of a crime and I do realise this matter has caused them a great deal of distress and a significant financial loss. However based on the evidence I've reviewed I maintain my provisional decision and I don't uphold this complaint.

### **My final decision**

For the reasons set out above, I don't uphold Miss M's and Mr N's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M and Mr N to accept or reject my decision before 7 November 2024.

Sally-Ann Harding  
**Ombudsman**