

The complaint

Miss C complains about that One Insurance Limited (“One”) wouldn’t pay a claim under her car insurance policy, which it then cancelled.

What happened

Miss C had a car insurance policy with One arranged through a broker. The policy was originally set up through a comparison website, via the broker, then it renewed and was insured with One, still using the same broker.

As part of the application process online she was asked for an address. She supplied her work address as that was where her car was kept.

Her car was used for business purposes. When it was parked outside a client’s premises, it was hit by a third party who then drove away. Miss C made a claim from One.

One investigated the claim and declined it. It said Miss C hadn’t taken reasonable care to answer a question about her address. It said if it’d known her home address, it wouldn’t have covered her. It cancelled her policy and wouldn’t return the premium. It later said this was an error and refunded the unused two months premium. It said it would pay Miss C £150 compensation.

Miss C hired a car for two periods and paid for the repairs herself.

As she remained unhappy, she brought her complaint to this service.

Our investigator looked into it and thought it would be upheld. He said he didn’t think One had asked Miss C a clear question. He said One should honour the claim and change its records to show Miss C had cancelled the policy.

One didn’t agree with the view. It pointed out that the policy had been renewed from a different insurer to One so comparisons to the original question set might not be valid.

It asked that this complaint was reviewed by an ombudsman, so it’s has been passed to me to make a decision.

I issued a provisional decision to allow the parties to consider the matter further:

I’m proposing to uphold Miss C’s complaint, but I’m issuing this as a provisional decision because I’ve changed some of the payments I’m proposing One needs to make to Miss C. I’d ask both parties to review this and provide their feedback.

At the centre of this complaint is One’s rejection of Miss C’s claim on the basis that she hadn’t taken reasonable care to answer a question.

The relevant law here is the Consumer Insurance (Disclosure and Representations) Act 2012 (“CIDRA”). CIDRA requires consumers to take reasonable care not to make a misrepresentation when taking out 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.

One has said that, if it had known Miss C's home address, it wouldn't have provided her with cover. That means it thinks her representation was a qualifying one under CIDRA.

One thinks Miss C made a careless misrepresentation when she provided her address.

I've looked at what Miss S was originally asked on the comparison site she used. She gave the work address and this was recorded on her policy as "Address". I've been provided with some of the screens from the original comparison website and they don't show, or clarify, that Miss C was supposed to use her home address.

In its responses to this service One said:

"it is natural any comparison site or information form would be referring to the individuals [sic] home address and not there [sic] work address"

And

"I would argue the address in question was referring to the home address and if this was entered correct the customer would not have been eligible for cover."

I think One's responses show that the question originally asked of Miss C is unclear as it requires interpretation.

It's One's position that this address must or should have been Miss C's home address, but I can't see any clarity about that.

Miss C hasn't hidden the fact that she used the car for business purposes and it was kept at the business address. On her statement of fact issued by One, it says:

"Where is Vehicle Kept Overnight? Parked Drive at [work postcode]"

And on her policy schedule, it says her address is as provided to One.

I can say that, perhaps, Miss C should have taken more care to answer the question she was asked: "Will the car be kept at home during the night?". She answered Yes to this question.

While it seems to me that One's acceptance criteria says it wouldn't accept her car when she used her home postcode, I can't see in its evidence that it couldn't accept the risk when a car is kept away from home, and as I've said above I don't reasonably think One asked a clear question about the address anyway. From Miss C's point of view, she's asked for an address and provides the one where she can be contacted and where the car is kept overnight.

One has pointed out that her policy renewed and it based its assessment of risk on the information that was pre-existing. As I've said above, Miss C's policy documents with One don't mention a 'home' address, just the 'address' on the policy.

So I don't think One asked Miss C a clear question and I think it's fair I say she took

reasonable care to answer the question presented to her. I'm satisfied that she didn't make a misrepresentation when she answered the question about her address.

It follows that I think the actions taken by One are unfair and not in keeping with CIDRA.

As CIDRA reflects our long-established approach to misrepresentation cases, I think not allowing One to rely on it to decline her claim and cancel her policy produces the fair and reasonable outcome in this complaint.

One now need to handle Miss C's claim in line with the policy terms and conditions.

Because she's apparently had repairs done, One needs to refund her the amount she paid, less her excess, in line with the policy terms. When Miss C has already paid an amount towards repairs covered under the policy, One needs to add interest at 8% simple to the amount from the date Miss C paid to the date it makes payment.

I can see from the file that Miss C has paid for repairs to take place, and she hired a car for two periods.

And because Miss C would have been entitled to a courtesy car under the terms of her cover with One, I think it's fair it pays the costs of the hire car she hired. I need to say Miss C hired a car twice. The first time was very shortly after the collision, and the second was some time later. The repair invoice I've seen doesn't align with either of the dates of the hires. I wouldn't normally expect the first hire car to be necessarily covered by a policy's courtesy car, as these are usually provided when a car is actually at an approved repairer being repaired.

But I think One needs to reasonably cover the second hire invoice in lieu of a car being provided to Miss C under the terms of her policy wording as she was reasonably entitled to expect. Again, 8% simple interest needs to be added to this invoice amount from the date Miss C paid to the date One pay her.

Miss C's policy with One is a monthly rolling policy. Under the terms of its policy, I can't see that One is able to require Miss C to pay for the remainder of her term, as it finished at the end of the month. And I don't think One needs to refund any premium because Miss C had 'use' of the policy until it ended.

Importantly, because I don't think One acted fairly in how it refused Miss C's claim I also don't think it acted fairly when it cancelled her policy. It now needs to change its records on its internal system and any external systems it's updated to show Miss C cancelled her policy.

I've also thought about the distress and inconvenience caused to Miss C by One. I can see it's paid her £150 compensation for its mishandling of a premium refund, but I don't think that's enough. Miss C has told this service about her worry and stress, and I think One needs to pay her an additional £150, making the total compensation £300.

Responses to my provisional decision

One responded and said it would still argue that Miss C had misrepresented where she kept her car, especially as it was her personal car.

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.

I've thought about One's response to my provisional decision, but it simply talks again about its opinion on her response. In other words, I think it's fair I say it's confirming that the question wasn't clear. And I've said above that Miss C has always maintained her car was kept at the place shown on her policy.

As neither party has provided any additional evidence that would change my mind, my final decision and reasoning remain the same as my provisional decision.

My final decision

For the reasons set out above, my final decision is that I uphold this complaint in part. I direct One Insurance Limited to:

- Settle Miss C's claim for damage to her car under the terms and conditions of her policy. If Miss C has paid for repairs already, then One needs to add interest at 8% simple to the amount she's paid, from the date she made payment to the date this payment is made.
- Pay Miss C £346.12 in respect of the hire car she paid for. Interest at 8% simple should be added to this figure from the date Miss C paid it to the date this payment is made.
- Pay Miss C total compensation of £300 for her distress and inconvenience. If payments have already been made, then they can be deducted.
- Update its internal records, and any external databases it's updated, to show Miss C cancelled her policy.

One Insurance Ltd must pay the amount within 28 days of the date on which we tell it Miss C accepts my final decision. If it pays later than this, it must also pay interest on the amount from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 15 November 2024.

Richard Sowden
Ombudsman