

## **The complaint**

Mr G complains that One Insurance Limited (“One”) mishandled his claim on a motor insurance policy.

## **What happened**

The subject matter of Mr G’s claim and complaint is a car, made by a premium-brand car maker with a large petrol engine and first registered in 2015.

Mr G acquired the car.

For the year from mid-June 2022, Mr G had the car insured on a comprehensive policy. The policy was branded with the name of an insurance intermediary. One was the insurance company that was responsible for dealing with any claim.

For the year from mid-June 2023, Mr G and One renewed the policy. Any claim for theft was subject to an excess of £800.00.

From about 2 January 2024, Mr G told One of a change of address.

Unfortunately, Mr G reported to One in late January 2024 that someone had stolen the car.

On about 20 February 2024, One declined his claim. It said Mr G had modified the car and made a careless misrepresentation about that, so the policy was void. Mr G complained to the intermediary and One that it wasn’t treating him fairly.

By a final response dated 23 February 2024, the intermediary turned down the complaint.

By a final response dated 27 February 2024, One turned down the complaint. It referred to Consumer Insurance (Disclosure and Representations) Act 2012 (“CIDRA”).

Mr G brought his complaint to us in early July 2024. He asked us to direct One to:

- settle his total loss claim; and
- refund storage, recovery, and vehicle return fees; and
- pay compensation for the distress and inconvenience he’d experienced; and
- withdraw the voiding of his policy and remove it from his record.

Our investigator recommended that the complaint should be upheld. He didn’t think that One treated Mr G fairly when it rejected his claim and voided his policy. The investigator recommended that One should:

1. reinstate Mr G’s policy; and

2. settle his total loss claim; and
3. add 8% simple interest from the date of the loss until a payment is made; and
4. return any costs to Mr G that he wouldn't have incurred had the claim not been rejected; and
5. pay Mr G £200 for the distress and inconvenience he's experienced during his claim.

Mr G accepted the investigator's opinion, save that he asked for confirmation that One would remove the voidance from relevant databases.

One disagreed with the investigator's opinion. It asked for an ombudsman to review the complaint. It says, in summary, that:

- Its criteria give a list of modifications that are acceptable and confirms any changes not included would not be acceptable for cover.
- The installation instructions for the spoiler lip suggest it would be a modification, particularly as the extension would be bonded to the car.
- The customer had breached his policy terms by not disclosing the change in information.
- One does not make a differentiation on permanent or temporary modifications.

### **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 taken into account the applicable law, policy terms, regulation and good practice. Above all, I've considered what's fair and reasonable.

I find that the car maker made the car in about 2015 with a body kit and a spoiler.

I haven't seen enough evidence that anyone made any modification to the car before Mr G told One of his change of address in January 2024. That change was a variation of the consumer insurance contract.

CIDRA put a duty on Mr G to take reasonable care not to make a misrepresentation to One on making that variation. As there's no evidence of modification at that time, there's no evidence that Mr G didn't comply with that duty.

I accept One's evidence that it wouldn't have offered cover for a modified vehicle. However that doesn't mean that Mr G had made a qualifying misrepresentation under CIDRA. I find that he didn't make any misrepresentation in breach of the duty under CIDRA. So there was no qualifying misrepresentation.

I accept Mr G's statement that it was in mid- January 2024 that his brother taped a lip extension to the car maker's spoiler.

On about 30 January 2024, someone broke into Mr G's new home while he, his partner, and his child were all asleep upstairs and stole a car key and the car. The theft of the car and the need to make a claim were, in my view, bound to cause Mr G upset and inconvenience.

However, One had a responsibility to deal with the claim fairly and promptly.

On about 1 February 2024, police located the car, damaged after an accident. One recovered the car and took it to its salvage agent. It said the car was a total loss.

CIDRA gives an insurer the remedies of treating the policy as void and declining the claim only if the consumer has made a qualifying misrepresentation. As Mr G hadn't made a qualifying misrepresentation, One treated him unfairly by seeking to invoke those remedies.

One has referred us to its policy terms that required Mr G to tell it about any changes including modifications to the car. The policy terms warned that if Mr G didn't tell One of such changes, then it might not meet any claim.

Nevertheless I wouldn't find it fair and reasonable for any motor insurer to decline a claim on the grounds of a failure to notify it of a mid-term change, unless the change was a substantial change in the risk to the insurer. I've noted One's criteria.

However I'm far from satisfied that the addition of a lip to the car maker's spoiler was a change that was a substantial change in the risk. I say that notwithstanding the instructions for the installation of the lip.

So I don't find it fair and reasonable for One to decline the claim on the ground of that mid-term change.

### **Putting things right**

I've thought about what to direct One to do to try to put things right.

I've thought about directing One to reinstate the policy. But Mr G has said he took out a replacement policy. So I don't consider that it's reasonable to direct One to reinstate its policy.

I find it fair and reasonable to direct One not to treat the policy as void, and to pay Mr G the pre-theft value of the car, less the excess of £800.00. As One should've paid the claim by about 20 February 2024, I find it fair to direct One to pay interest from that date at our usual rate.

I also find it fair and reasonable to direct One to write a letter to Mr G (which he may show to his current and any future insurers) saying that One unfairly treated his policy as void, and that it has removed any adverse information from external databases to which it provided such information. Mr G's current motor insurer may be able retrospectively to reduce his premium.

If One had met the claim, Mr G wouldn't have had to pay the salvage agent for recovery and storage, or for returning the vehicle to him (save in the unlikely event that he wanted to keep the damaged car).

In early July 2024, Mr G told us that the salvage agent still had the damaged car, and he was going to pay the salvage agent the following:

Storage and recovery	£450.00
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Vehicle return fee	£180.00
Total	£630.00

He then intended to sell the damaged car at auction for parts.

However, a recent DVLA vehicle check shows that the vehicle is subject to a SORN (statutory off-road notification) and its most recent V5 registration document is dated 2 January 2024 (which corresponds with Mr G's change of address). So I don't find it likely that Mr G has sold the damaged car.

In the circumstances, I find it fair and reasonable to direct One to reimburse Mr G for any amount he has paid to the salvage agent, with interest from the date of payment at our usual rate.

I accept Mr G's statement that he felt that One treated him like a criminal. I've noted Mr G's profession and I find it likely that he worried about an adverse impact on that. Also, One caused Mr G to have to spend time arguing his case. This came at an already difficult time for him and his family. One's final response did nothing to put things right.

Mr G accepted the investigator's recommendation and, all things considered, I agree that £200.00 is fair and reasonable compensation for the extra distress and inconvenience One caused him by its unfair handling of his claim.

### **My final decision**

For the reasons I've explained, my final decision is that I uphold this complaint. I direct One Insurance Limited to:

1. not treat the policy as void; and
2. pay Mr G the pre-theft value of the car, less the excess of £800.00; and
3. write a letter to Mr G (which he may show to his current and any future insurers) saying that One unfairly treated his policy as void, and that it has removed any adverse information from external databases to which it provided such information; and
4. reimburse Mr G for any amount he has paid to the salvage agent; and
5. pay Mr G simple interest at a yearly rate of 8%:
  - 5.1 on the amount it pays him under paragraph 2 above, from 20 February 2024 to the date of its payment; and
  - 5.2 on the amount it pays him under paragraph 4 above, from the date of Mr G's payment to the date of its reimbursement; and
  - 5.3 If One considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr G how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and

6. pay Mr G £200.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 January 2025.

Christopher Gilbert

**Ombudsman**