

The complaint

Mr C complains that Liverpool Victoria Insurance Company Limited ('LV') unfairly declined a claim and cancelled his motor insurance policy.

What happened

Mr C had an LV car insurance policy, taken out sometime before August 2022. He bought a new car and, soon afterwards, added paint protection film (PPF) to it. In April 2024, he was involved in an accident and his car was badly damaged. He made a claim to LV.

LV investigated the claim. It told Mr C:

- He'd added the PPF to his car.
- This was a "*modification*" under the policy terms.
- The policy requires him to tell LV about any changes "*which improve the value, appearance, performance or handling of your car.*"
- It wouldn't have insured his car if it had known about this modification.
- It declined the claim, cancelled the policy, and retained Mr C's premiums.

Mr C complained to this service because he believes LV treated him unfairly. He says, in summary:

- The policy definition of modification is "*unclear and misleading*".
- PPF isn't included in the examples of modification in his policy.
- It can't be considered a modification as it doesn't improve the value, performance, appearance, or handling of his car.
- Other insurers don't class PPF as a modification.
- LV's actions have caused him financial, physical, and emotional difficulties.
- He wants LV to accept his claim and pay for the repairs to his car.

Our investigator recommended that the complaint should be upheld. She thought LV's decision to cancel the policy was unfair because the insured risk hadn't changed. She thought LV should settle the claim by refunding the cost of repairs (plus interest), remove any record of the cancellation, and pay Mr C £400 for the distress its handling of the claim caused him.

LV didn't agree with our investigator, so the complaint was passed to me.

My provisional decision

I issued a provisional decision on this complaint on 5 December 2024. I said:

"First, ombudsmen decisions are published so are written in a way that prevents the customer from being identified. Mr C's personal circumstances and his April 2024 accident are known to both parties so I'm not going to set them out here. If I'm vague about any of this it's to keep Mr C from being identified, not because I've ignored them or think them

irrelevant.

I'm not going to comment on LV's underwriting decision not to cover cars with PPF. The risk of insuring a vehicle is LV's to take on, so it's right that it – like any insurer – can decide what risks it's prepared to cover. But LV has essentially argued that Mr C misled it when he answered questions about his car. This meant it insured a vehicle it wouldn't otherwise have done.

The relevant law in this case is the Consumer Insurance (Disclosure and Misrepresentation) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out an insurance policy. The standard of care is that of a reasonable consumer.

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 must 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 several 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 1) deliberate or reckless, or 2) careless.

The first thing for me to decide is: was there a misrepresentation? In my opinion, there wasn't. I'll explain why.

LV provided a screenshot of the question Mr C would have seen on his account when he changed the car on his policy: "Does this [car make and model] have any modifications, other than for disabilities?". Mr C answered 'No'.

The policy renewal documents he was sent in August 2023 use similar language. For example:

- The 'Cover summary' says the car "Hasn't been changed from the manufacturer's standard specification, except for disability modifications."*
- The policy booklet asks Mr C to tell LV if "changes are made to the manufacturer's standard specification, which improve the value, appearance, performance, or handling of the car." ('General conditions', page 24)*

The help text on LV's website gives examples of what might be considered a modification. This says:

"We don't cover other modifications, which include, but aren't restricted to:

- bodywork, such as spoilers or body kits*
- suspension or brakes*
- cosmetics, such as alloy wheels*
- performance, such as engine and exhaust"*

PPF is a clear film designed to protect the car's paintwork from damage, such as chips or scratches. I don't think it obviously fits within any of the categories above. It doesn't affect the suspension, brakes, or performance of the car. And, in my opinion, it isn't a change to the bodywork or cosmetics. The examples given – spoilers, body kits, alloy wheels – are all physical changes to the car's appearance specifically designed to improve either the performance or appearance of the car. That isn't true of PPF.

I don't accept LV's argument that PPF changes the appearance of the car or increases its value. If applied correctly, PPF would only be noticeable under close inspection. Its sole function is to protect the car from damage, not increase its value. I don't accept LV's argument that it would increase the cost of repairs by £2,500. There's no suggestion of this cost in Mr C's final repair invoice. So I'm not persuaded that the PPF is a modification. And I don't think a reasonable consumer would think it is.

LV asked Mr C if he'd made any modifications to his car. He answered 'No'. I think a reasonable consumer would have done the same. This means I don't think Mr C made a misrepresentation when he answered the question, either when he updated his policy or renewed it.

However, even if I agreed with LV that Mr C had made a misrepresentation, I'd have to decide whether it was a qualifying misrepresentation under CIDRA. If it wasn't, LV can't take any action, even if the information Mr C gave was wrong.

To do this I have to answer a simple question: did the consumer take reasonable care he answered the question? And I think Mr C did take reasonable care for exactly the same reasons I set out above. I think he answered the modification question honestly and I think he took reasonable care while doing so. This means there isn't a qualifying misrepresentation under CIDRA, and LV can't avoid his policy.

In summary, I understand why Mr C believes the policy definition of modification is "unclear". I agree with him. I think he answered the question correctly, based on the information available, including the help text on the website. This means I don't think he made a misrepresentation. But even if I did accept he made a misrepresentation, it isn't a qualifying misrepresentation. The result is the same in both scenarios: LV can't avoid the policy and should settle the claim.

Mr C collected his car on 7 June 2024 and paid £13,728.05 for repairs the same day. LV should refund this, plus interest. For the avoidance of doubt, LV can deduct the policy excess from this amount.

Two other points:

- Mr C had to take out a new insurance policy in June 2024. His premium will have been higher because his LV policy was cancelled. His new policy schedule shows his premium was £2,088.85. His LV premium was £816.30. I think LV should pay Mr C the difference to reflect the amount the cancellation marker had on how much he paid for his insurance.*
- The policy booklet says: "You may not get a refund of your premiums if you've made a claim...." ('General conditions', page 23) My decision to ask LV to settle the claim means Mr C has effectively 'used' his policy so must pay the full premium for the year. It wouldn't be fair for me to ask LV to refund any of his premiums.*

Finally, it's clear that LV's handling of the claim caused Mr C substantial distress. I think this was particularly acute because Mr C might reasonably be considered a vulnerable consumer. For example:

- LV failed to reply promptly to emails. Mr C repeatedly had to chase it for updates.*
- Mr C's policy guarantees a hire car. This benefit was lost when LV cancelled the policy.*
- He was without a car for just over two months. He relied on his car for specific health*

reasons, so this had a significant impact on his health and his daily life.

- *Mr C had money set aside for the same health reasons. He had to use this money to pay for the car repairs. Again, this had a direct impact on his health.*
- *He had to rely on friends and family for transport. This caused Mr C a great deal of emotional stress.*
- *The cancellation note on his record increased his insurance quotes, causing further distress and anxiety.*

I've thought very carefully about the level of award this service makes in similar circumstances. Having done so, I think LV should pay Mr C £1,000 to reflect the distress and inconvenience its handling of the claim caused him."

Responses to my provisional decision

Mr C told us he had no further evidence and accepted my provisional decision.

LV didn't accept my provisional decision. It said my decision was inconsistent with other cases considered by this service. It gave an example where the ombudsman "*agrees that a wrap (which PPF is) is counted as a modification... [and] dismisses the notion that it has to be given as a specific example.*"

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 assure LV that I looked at the complaints it previously highlighted before I made my decision. I've also reviewed the decision it referenced in its response. But every complaint we see is different. LV will know that similar-looking claims can turn out to be quite different and have different outcomes.

For the avoidance of doubt, I agree that the list of examples in Mr C's motor insurance policy is non-exhaustive. I didn't argue otherwise.

In this complaint, I agree with Mr C that PPF doesn't obviously fit within any of the examples categories listed (bodywork, suspension or brakes, cosmetics, performance). I also agree with him that PPF didn't improve the value, performance, appearance, or handling of his car. For these reasons, I think his answer to the modification question was reasonable.

And, as I said in my provisional decision, even if I agreed with LV that Mr C's answer was wrong, it isn't a qualifying misrepresentation under CIDRA because I think he took reasonable care when he answered it. This means LV can't avoid the policy and should settle the claim.

I uphold Mr C's complaint for the same reasons I set out in my provisional decision.

My final decision

My final decision is that I uphold the complaint and order Liverpool Victoria Insurance Company Limited to:

- Refund £13,728.05 to Mr C (the cost of repairs), less the policy excess.
- Add interest to this sum at 8% simple per year from 7 June 2024 (the date Mr C paid his repairer) to the date of settlement.

- Remove the record of the policy cancellation from any internal or external databases.
- Pay Mr C £1,272.55 to reflect the difference his current insurance policy cost and what he was paying for his LV policy.
- Pay Mr C £1,000 to reflect the distress and inconvenience its handling of the claim caused him.

*If LV considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr C how much it's taken off. It should also give Mr C a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 9 January 2025.

Simon Begley
Ombudsman