

The complaint

Ms J complains that Accredited Insurance (Europe) Limited (Accredited Insurance) unfairly avoided her motor insurance policy (treated it like it never existed) and refused to pay her claim.

What happened

Ms J took out a motor insurance policy with Accredited Insurance through an online price comparison website. The policy started in March 2022 and renewed after one year. When Ms J's car was involved in an incident with a third-party vehicle in October 2023, she made a claim on her policy

Accredited Insurance said she'd not updated it about a motor claim in July 2022 for the named driver on her policy during the renewal process. And it considered this to be a qualifying misrepresentation, which entitled it to avoid her policy, decline her claim because of this and keep the premiums she had already paid.

Ms J brought her complaint to us and our investigator thought it should not be upheld. They agreed there had been a qualifying misrepresentation and that Accredited Insurance were entitled to avoid her policy, decline her claim and retain the premium she'd paid.

Ms J doesn't agree with the investigator and has asked for an ombudsman's decision. She said there has been a genuine misunderstanding, because the question being asked wasn't clear enough.

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.

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.

Accredited Insurance thinks Ms J failed to take reasonable care not to make a misrepresentation when she failed to tell it that the named driver on her policy had been involved in a claim during the renewal of her policy after one year.

I've looked at the question asked when Ms J initially took out the policy. For each driver it asks;

"Has this driver had or caused any accidents, claims or damage involving any motor vehicle (including car, motorcycle or van) in the past 5 years, whether or not a claim was made, and regardless of blame?"

This was correctly answered no at this point so reasonable care was taken.

Ms J did not contact Accredited Insurance to update that the named driver made a claim in July 2022. This wasn't made at either the time the claim was made by the named driver, nor was it disclosed when her policy renewed. She explained she did not believe this was required to be disclosed because the claim was following a theft.

Although I can accept Ms J failed to tell Accredited Insurance at the time of the claim for the named driver, I don't think she took reasonable care to check the details on the policy when she received her renewal documentation. I saw that Accredited Insurance issued Ms J an email to confirm the renewal on 28 February 2023. She was provided with the renewal documents which included the statement of facts, policy schedule, terms and conditions, and a copy of the questions and answers upon which the quotation was based. In the renewal letter it asked her to review these documents and to let it know if anything was incorrect.

I saw the statement of facts explained the consequences of providing inaccurate or false information and said if the information were incorrect, it may mean that the policy was invalid and would not operate in the event of a claim.

Because Ms J failed to update Accredited Insurance that the named driver on the policy had a theft claim in July 2022 this is a qualifying misrepresentation.

Accredited Insurance has provided evidence by way of its underwriting criteria which shows it would not have offered a renewal if she had disclosed a claim being made by any driver on the policy.

This means I'm satisfied Ms J's misrepresentation was a qualifying one.

Accredited Insurance has not said if it deemed Ms J's misrepresentation to be deliberate, reckless, or careless. I'm satisfied her misrepresentation should be treated as careless.

I've looked at the actions Accredited Insurance can take in accordance with CIDRA in the case of a careless misrepresentation. Because it would not have offered cover it can;

- Avoid the policy from the point of misrepresentation. Often from the start, but not always (mid-term),
- Return any unused premiums the consumer paid.
- Treat the policy as though it never existed from the point of avoidance and not deal with any claims.
- Look to recover any cost's it's paid to a third party on any claim after the misrepresentation.

In this case Accredited Insurance;

- Avoided the policy from the date of renewal.
- Treated the policy as though it had not existed from the renewal date and did not deal with Ms J's claim.
- Retained the policy premium paid to cover any outlay it is obliged to make (under the various Road Traffic Acts) in relation to a claim from the third party.

Accredited Insurance said it retained the premiums due to Ms J hitting the rear of another vehicle, for which it was dealing with a claim. It said if no claim for damage had of been made or no other damage experienced, it wouldn't have retained the premiums.

This means the actions Accredited Insurance took are in line with CIDRA.

Therefore, I'm satisfied Accredited Insurance was entitled to avoid Ms J's policy in accordance with CIDRA. And, as this means that – in effect – her policy never existed, Accredited Insurance does not have to deal with her claim for damage to her car following the incident in October 2023.

I realise this matter has caused Ms J a great deal of distress and a significant financial loss, but as CIDRA reflects our long-established approach to misrepresentation cases, I think allowing Accredited Insurance to rely on it to avoid Ms J's policy produces the fair and reasonable outcome in this complaint.

My final decision

For the reasons set out above, I've decided not to uphold Ms J's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 10 February 2025.

Sally-Ann Harding
Ombudsman