

The complaint

Mr L complains that Alwyn Insurance Company Limited (Alwyn) voided his motor insurance policy and didn't pay his claim.

What happened

Mr L held a motor insurance policy with Alwyn. He contacted them in October 2024 to report a claim after being involved in a road traffic accident.

Alwyn initially dealt with the claim, but when Mr L provided a copy of his vehicle's V5 document, Alwyn identified that Mr L's father was named as the registered keeper of the car, and not Mr L. Alwyn said if they had been told about the vehicle's registered keeper being Mr L's father, they wouldn't have offered him cover at all, so they avoided the policy. And because the policy effectively didn't exist, they didn't need to deal with the claim. They also retained the premiums paid for the policy to offset any costs paid out as a result of the claim.

Mr L didn't think this was fair and complained. He said that the vehicle was purchased in 2014 and his father was paying the finance on it. But once the finance was paid off in 2017, he became the owner, and Mr L said the original intention was always to register the car in his name once the finance was paid off. Alwyn considered Mr L's complaint but didn't change their stance. They said their actions were in line with the relevant law, and they had cancelled the policy due to a misrepresentation. But they did agree to refund the policy premiums paid.

Mr L remained unhappy with LV's response, so he brought the complaint to this Service. He said he didn't think the question Alwyn asked when he took out the policy was clear enough for him to understand that a registered keeper and owner were sometimes different. And he said because it was explained that the vehicle's registered keeper could be found in the V5 and not the 'Logbook' or 'Registration Document' – this meant a reasonable consumer wouldn't understand what was being asked.

I wrote to both parties and explained I was minded not to uphold the complaint. I explained that, having considered the available evidence, I was satisfied the question Mr L was asked was sufficiently clear to prompt a reasonable consumer to check whether they were they registered keeper and owner of the car being insured. I concluded that Alwyn could demonstrate that a misrepresentation had occurred, and that I had seen evidence that persuaded me they wouldn't have provided cover had they known about the registered keeper being Mr L's father when the policy inceptioned.

I invited both Alwyn and Mr L to respond to my initial findings with anything they wanted me to consider further. Alwyn agreed with my findings and said they had nothing further to submit.

Mr L also responded to my findings but said he didn't agree. He said the question he was asked didn't outline that the registered keeper and owner are different things or that the owner may not be the keeper or that they are asking two separate questions. He said if this question had been clearer, he would have researched what it was asking him and felt it had

encouraged him to answer 'yes'. Mr L felt the proposal questionnaire was incredibly long and the average consumer couldn't be expected to fully research every question to ensure they fully understood each question unless the difference was clearly highlighted.

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.

Having done so – I've decided not to uphold this complaint.

The relevant law here is the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) – which requires consumers to take reasonable care not to make a misrepresentation when either taking out a consumer insurance contract, or at renewal. The standard of care is that of a reasonable consumer.

And if a consumer fails to take reasonable care, and does make a misrepresentation, 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 they 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.

Alwyn says Mr L didn't correctly answer the questions raised to him when he took out the policy and voided the policy as they felt he had made a careless qualifying misrepresentation. So, I think the principles set out in CIDRA are relevant, and it's fair and reasonable to apply these principles to the circumstances of Mr L's claim. That means I need to first consider whether Mr L took reasonable care not to make a misrepresentation.

When considering whether a consumer has taken reasonable care, I need to decide whether the questions they were asked were clear. The question Mr L was asked said:

"Are you (or will you be) the registered keeper and legal owner? The registered keeper is named on the V5 certificate (you/they should have a copy)."

Below this question was further explanatory information which said:

"If your car is financed or leased, you can check the agreement to confirm who the legal owner and registered keeper is. If you bought the car or if ownership was transferred to you (for example if the car was a gift) then you would also be the legal owner."

I understand Mr L says he doesn't feel the question asked of him was clear enough. He says the average person, with limited knowledge on the documentation of cars, would have made the same mistake he did, because the question outlined the registered keeper is named on the 'V5' document – and didn't specify that this document is also known as a 'Logbook' or 'Registration Document'. Mr L has said that if the question outlined that the car's V5 document is also known as a 'Logbook' or 'Registration Document', this would have been clear enough for him to understand where to look for this information and ensure it was correct.

Mr L also said that the question isn't clear enough to distinguish that the registered keeper and owner of a car isn't necessarily the same person. He said his father had given the car to him as a gift when the finance had been paid off. And as the explanatory material stated that if the "*car was a gift*", then you would also be the owner, he didn't understand the registered keeper would be different to this. Mr L said at no point did the question state that the keeper and owner are different things. He also submitted that he would have researched what the difference was if it was not for the definition encouraging him to answer 'yes'.

Mr L has also provided evidence from other comparison websites which he says provides a further explanation of what a V5 is and also distinguishes between a registered keeper and owner of a car. While I take on board what Mr L has said about other explanations given using other comparison sites, I should highlight that I'm not able to consider questions other websites ask and I must focus on the actual question he answered.

The test as to whether Mr L took reasonable care is also one of a reasonable consumer, not one unique to Mr L. So, while I take on board what he's said about his own understanding of what he needed to disclose, I have to consider what I think a reasonable person would have responded with when answering the question he was asked.

Having done so, I'm satisfied the question was clear enough to prompt a reasonable consumer to realise Alwyn required Mr L to tell them whether he was the vehicle's registered keeper. There are several reasons why I have made this conclusion.

The question provided Mr L with the official document name, so although Mr L may have known it as something different, I think a reasonable consumer would understand what this meant, and could have sought to find out what a V5 document referred to if they were unsure.

Additionally, the explanatory material says that if the car was a gift "*you will **also** be the legal owner*" (my emphasis) which I feel shows a distinction between registered keeper and owner. So, while I can see other websites may phrase the question asked in a different or even clearer way, this doesn't then follow that the question Mr L was asked was unclear.

I've also thought about this when considering Mr L's testimony, that he had intended to change the registered keeper details but forgot to do so, and from then on believed the car to be his. I also note he initially told Alwyn that he didn't recall being asked this question, let alone what answer he had given. So, I'm not persuaded that Mr L would have given a different answer, even if the question had provided a further distinction between owner and registered keeper.

In conclusion, I'm satisfied the evidence demonstrates that a misrepresentation was made, in line with CIDRA.

I've then gone on to consider whether I'm satisfied that the misrepresentation was qualifying under CIDRA. Alwyn has demonstrated that they wouldn't have offered the policy at all, had Mr L told them his father was the vehicle's registered keeper. Their underwriting criteria sets out that acceptable registered keepers are either the policyholder, their spouse, or a leasing company. This means I'm satisfied the available evidence shows that the misrepresentation was qualifying under CIDRA. And it follows that I think Alwyn is entitled to apply the relevant remedy available to them.

Alwyn classed Mr L's misrepresentation as careless, which I'm satisfied was a reasonable position for them to take, based on the available evidence. Under CIDRA, this means they were entitled to avoid the policy, refuse any claims, but needed to return the premiums paid.

I can see Alwyn did originally seek to retain the premiums paid to offset any claims costs they would need to cover, because Mr L wouldn't have any cover under the policy. Mr L said this was unfair as he had to pursue a complaint with them in order for his premiums to be refunded, in line with the remedy Alwyn have under CIDRA.

Generally, while CIDRA requires a refund of premiums for a careless qualifying misrepresentation, I don't think it would be automatically unfair for an insurer to retain the premiums paid if there were costs incurred as a result of a claim. And here, Mr L had collided with another vehicle, so Alwyn may have wanted to offset any additional costs Mr L would be required to pay. And we may say it's fair for an insurer to not issue a refund until such time as they're reasonably satisfied they won't have a third-party outlay to pay.

However, I understand Alwyn ultimately refunded the premiums paid for the policy. And as this is what they are required to do under CIDRA for a qualifying careless misrepresentation, I think their actions were fair and reasonable.

So overall, whilst I recognise Mr L has suffered an unfortunate loss which would have had an impact on him, and he will ultimately be responsible for any third-party costs as the policy was voided, I think that Alwyn has dealt with his claim in line with the relevant law and industry guidelines. And this means that I think they acted fairly, so I won't be directing them to do anything further.

As CIDRA reflects this Service's long-established approach to misrepresentation cases, I find that allowing Alwyn to rely on it to avoid Mr L's policy produces a fair and reasonable outcome in this particular complaint.

My final decision

For the reasons given above, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 18 March 2025.

Stephen Howard
Ombudsman