

## **The complaint**

Mr G complains that First Central Underwriting Limited (First Central) unfairly avoided his car insurance policy following a claim he made.

## **What happened**

Mr G held a motor insurance policy underwritten by First Central. He made a claim in September 2024 after his car was stolen. First Central say that during its consideration of the claim, it became apparent Mr G had made a misrepresentation when he bought the policy. So, it declined his claim and avoided the policy.

When Mr G complained, First Central said he'd answered the question he'd been asked about modifications to his car incorrectly. And that it considered this to be a qualifying misrepresentation, which entitled it to avoid the policy and refuse the claim. Mr G remained unhappy and referred a complaint to this Service.

I wrote to both parties and explained I was minded to uphold the complaint. I explained I was satisfied Mr G's car had been modified and First Central's underwriting criteria had shown it wouldn't have offered cover had it known about the modifications. But in the overall circumstances of the complaint, I didn't think Mr G had failed to take reasonable care when applying for the policy. So, I said I was minded to direct First Central to remove all record of any avoidance/cancellation markers from any internal or external databases, reconsider the claim in line with the remaining policy terms and pay Mr G £400 in compensation for the trouble and upset caused.

I invited both First Central and Mr G to respond to my initial findings with anything they wanted me to consider further. First Central disagreed with my position. It said the modifications on Mr G's car were extensive and ones Mr G should have declared at inception. It explained some of the modifications to the rear of the car aren't designed for the model of car Mr G owned and it would have been clear to Mr G that these weren't fitted by the car's manufacturer, and thus something he should have told it about when he purchased the policy.

First Central also said that prior to Mr G buying the policy, the car failed an MOT for the registration plate not conforming to the specified requirement. The car has a personalised plate, which suggests the plate was modified. It says nine days after the policy started, the car passed its MOT. First Central thinks Mr G had another set of plates that he was able to put on the car to enable it to pass the MOT, and that he knew the plates that were initially on the car were illegal.

Mr G explained he didn't think the £400 compensation I said I was minded to direct First Central to pay fairly reflected the trouble and upset it caused. He also said that due to First Central's decision to avoid the policy and subsequently decline the claim, he's had no access to alternative transport. And in order to mitigate his situation, he paid £700 to repair his brother's car in order to use it. He said First Central should cover these costs.

In response to First Central's concerns regarding the number plate, Mr G told us he didn't consider a personalised number plate as a modification in the way First Central considers it.

## 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'd like to reassure the parties that although I've only summarised the background to this complaint, so not everything that has happened or been argued is set out above, I've read and considered everything that has been provided.

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 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 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, reckless, or careless.

First Central thinks Mr G failed to take reasonable care not to make a misrepresentation when he stated in his online application the car had no modifications. I've looked at the questions Mr G was asked when he completed the application. The question relating to modifications says, *"Has the car been modified in any way?"*

The question also included a statement below to provide assistance that said *"Modifications are changes to the car's original specification. These can be mechanical or cosmetic changes inside or outside the car."* So, I think the question Mr G was asked was clear and gave adequate guidance on the type of modifications Mr G needed to disclose.

First Central says Mr G's car has a number of modifications, including side skirts, front splitter/rear diffuser and spoiler which have been confirmed by an engineer who inspected the car in conjunction with the car's specification sheet. But the engineer does say, as does the car's technical data and specification document that these are included as part of a particular optional extra pack available through the manufacturer. However, in this case, the engineer who inspected the car has confirmed the 'modifications' on Mr G's car are not factory fitted.

Based on the engineers' comments, who I think is suitably qualified to give such opinion, I'm satisfied, on balance, they are modifications. And First Central has provided evidence of its underwriting criteria showing if Mr G had disclosed these modifications it wouldn't have offered him cover- so it considers the misrepresentation to be a qualifying misrepresentation as per CIDRA.

Mr G told First Central he completed the application using the information available to him from the individual he bought the car from. Mr G seems to accept he was aware the car wasn't a 'standard model' but he thought it was just one that had numerous extras added to it because of what he was told when he bought it and from what the car's specification sheet said.

I need to consider what a reasonable person in the same set of circumstances would do – i.e. was Mr G's actions in line with what a reasonable person would have done. It's not

unreasonable or unusual for a prospective buyer to rely on the information given to them by the seller on a car's previous history or the car. And it's expected of a customer (when purchasing insurance cover) to use the car's registration information to help answer any questions an insurer might ask them during the policy inception.

I note First Central's comments, which are supported by photographs, that the modifications to the rear of the car are not intended for the model of car Mr G owns. And I can see there's a space for an exhaust pipe on the righthand side of the car which isn't present. But the modifications on Mr G's car are ones that appear to be supplied and fitted by the same manufacturer (as supported by First Central's engineer), albeit I accept in this situation that's not the case. But I don't think Mr G was expected to know that. And given he was told by the seller that the car had no modifications only optional extra's (which are included within the car's specification document) I don't think he had any reason to dispute this. And I don't think he had any reason to think they'd been any changes to the car's original specification.

Therefore, I'm not persuaded a reasonable person in the same set of circumstances would have acted differently to the way Mr G acted. And I can't reasonably conclude that he failed to take reasonable care when answering the questions around modifications.

First Central says Mr G had a personalised number plate on the car prior to him taking out the policy. And it considers this a modification Mr G needed to tell it about. But the question First Central asked Mr G in relation to modifications relates to changes to the car, not the registration plate. And as registration plates act as an identification number for a car, I don't think any reasonable person in the same set of circumstances would have answered differently to the way Mr G did.

As I don't think Mr G failed to take reasonable care when applying for the policy, I can't say there's been a qualifying misrepresentation as per CIDRA. So, I don't think First Central acted reasonably when it avoided Mr G's policy and declined to cover his claim. On that basis, I uphold this complaint.

Mr G has explained he's not had access to a car for some time because of the way First Central handled things. And he's explained he had to pay for the repairs of a family members car in order to use it.

Our normal position where someone has lost the use of their car due to a business's actions, is to look at the additional travel costs incurred by the policyholder during the relevant period. Although I don't dispute Mr G's feelings on the matter, he's not provided this Service with any details of the costs involved. But even if he was to evidence the repair costs he paid for, in order for me to direct First Central to cover these, I first need to be satisfied the costs Mr G incurred were the direct result of First Central's actions. And whilst I don't dispute Mr G's comments, I'm not satisfied the payment Mr G made to repair the car was directly because of First Central. So, I'm not asking it to cover these costs.

But I think First Central's handling of the claim, and in my opinion, its unfair decision to avoid the policy and subsequently decline the claim caused considerable trouble and upset over a sustained period. Mr G has explained he's not had use of a car for some time as a result of First Central's handling of things, which has made family life difficult for him. I haven't detailed everything here – but I've considered everything Mr G has told us. I think the service Mr G received from First Central has fallen short of the standard I'd expect to see, and so I think it should pay Mr G £400 in compensation for the trouble and upset caused.

### **My final decision**

For the reasons outlined above I uphold this complaint. I direct First Central Underwriting Limited to settle Mr G's complaint as follows:

1. Remove all record of the policy avoidance/cancellation from internal and external insurance databases.
2. Reconsider Mr G's claim in line with the existing terms of the insurance policy.
3. Pay him £400 in compensation for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 21 April 2025.

Adam Travers  
**Ombudsman**