

The complaint

Mr H complains that Alwyn Insurance Company Limited avoided his policy and didn't deal with his claim.

Reference to Alwyn includes its agents.

What happened

Mr H held a motor insurance policy underwritten by Alwyn. When his house was burgled his car keys were stolen, and shortly after, so was his car.

Mr H made a claim for his car from Alwyn. But Alwyn said Mr H hadn't correctly answered the question it asked about his motoring convictions when he took out the policy. It said this meant it could avoid his policy – act like it didn't exist – and not deal with his claim. It returned his premium to him.

Mr H didn't think this was fair. He said he thought by giving his licence details, any convictions would have been found by Alwyn when it checked. He also didn't think avoiding his policy and not dealing with his claim was a proportionate response to what he considered a small error.

Alwyn didn't change its stance, so Mr H complained. He also said he was sent a letter telling him the cost of his claim – even though Alwyn had already told him it had been declined – and confirmation of this no claims discount (NCD), which was correct. He said it took too long to get the correct information from Alwyn.

Alwyn didn't think it had done anything wrong, so Mr H brought his complaint to us.

Our Investigator thought Alwyn was entitled to avoid Mr H's policy and not deal with his claim. But she thought it had caused him trouble and upset surrounding the confirmation of his NCD. She recommended it pay Mr H £100 compensation to acknowledge this.

Alwyn accepted our Investigator's assessment. Mr H didn't. He thought the compensation surrounding the NCD was reasonable but didn't think it was fair his claim wasn't paid and maintained the outcome was disproportionate to any error he may have made.

Mr H asked for an Ombudsman's decision.

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'm reaching the same answer as our Investigator. I'll explain my findings.

As our Investigator explained, the relevant law here 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.

Alwyn thinks Mr H failed to take reasonable care not to make a misrepresentation when he answered the question he was asked about previous driving convictions.

It's shown that Mr H didn't disclose any previous convictions, where in truth he had one, an SP50.

I've looked at the question asked and I'm satisfied it's clear. He was asked *"Have you had any driving related convictions, endorsements, penalties, disqualifications or bans in the past 5 years?"*.

I've considered why Mr H didn't tell Alwyn of his SP50. He's said he thought it would come up when Alwyn checked his licence details. I can appreciate Mr H's point here, but the question clearly indicates Alwyn wanted to be told about any convictions. I'm not persuaded there was anything that indicated Alwyn would check Mr H's details to make sure they were correct. Ultimately, under CIDRA, that's Mr H's responsibility, not Alwyn's. Ultimately Mr H knew he had a conviction, was asked a clear question about it and didn't give an accurate answer. I consider that a failure to take reasonable care.

I've considered what a reasonable consumer would have done in the same circumstances, and I'm persuaded they'd have told Alwyn of their SP50. So on that basis, I'm satisfied Mr H's answer of "no" when asked about his convictions constitutes a failure to take reasonable care.

Alwyn has shown that had Mr H told it about his SP50 it wouldn't have offered him cover. Which means, coupled with Mr H's failure to take reasonable care, I'm satisfied Alwyn has shown that Mr H's answer is a qualifying misrepresentation under CIDRA.

That means it has remedies available to it set out under CIDRA. What remedies are available depends on how Alwyn views the misrepresentation. Here, it views it as careless. And as that's the most favourable for Mr H, I don't intend to interfere with that.

Under CIDRA, where a careless qualifying misrepresentation has taken place, and there's been a claim, the insurer is essentially able to act as it would have done had no misrepresentation been made. Here, Alwyn has shown it wouldn't have insured Mr H. So under CIDRA it's entitled to avoid his policy from when the qualifying misrepresentation was made, which here, is when the policy was taken out, or inception. But it must return his premium, which I can see it has done. Because Alwyn has avoided the policy from inception, there's no policy for Mr H to claim from. So, Alwyn not dealing with his claim is a reasonable action for it to take.

I understand Mr H thinks this is disproportionate. And from his perspective I can see that. What is by his definition a misunderstanding (I agree it likely was) has meant he's had an avoided policy and a claim not being paid on a vehicle he has financial responsibility for. But that misunderstanding has meant that Alwyn offered him insurance it would never have

offered him had he not made it. So It wouldn't be fair or reasonable to ask Alwyn to pay for a claim on a vehicle it never should have insured.

Ultimately, I'm satisfied Alwyn's actions were ones it was entitled to take under CIDRA. And therefore, fair and reasonable.

I can see there was some confusion following the avoidance, surrounding the NCD and also what the conviction Mr H didn't tell Alwyn about was. It took too long for Mr H to get the right information on his NCD and being told the value of a claim your insurer isn't paying would have added to the distress caused by not having the claim paid. Like our investigator, I'm satisfied £100 compensation is a fair and reasonable amount to compensate this, because I consider this amount to reflect the impact on Mr H for the time it took Alwyn to give him the right information..

My final decision

For the reasons set out above, I uphold this complaint and require Alwyn Insurance Company Limited to pay Mr H £100 compensation.

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

Joe Thornley
Ombudsman