

The complaint

Mr R complains that First Central Underwriting Limited cancelled his motor insurance policy as if it hadn't existed, known as avoidance.

What happened

Mr R initially took out a First Central policy which covered him for parts of 2022 and 2023. In early May 2024 he again insured his car with First Central. Soon afterwards it told him it believed he'd used an unauthorised third party – often known as a ghost broker – to obtain the policy. It said it viewed that as a misrepresentation and as such would cancel his policy from its inception (avoidance).

Mr R didn't think that was fair and complained. First Central didn't change its stance on the matter. Mr R brought his complaint to the Financial Ombudsman Service. He told us that since the policy cancellation he hasn't been able to insure the same car and has had to take a different type of policy that has restrictions on it.

One of our Investigators looked into the complaint. He thought First Central should have given Mr R the opportunity to cancel the policy himself, so it wouldn't affect his insurance history.

To put things right the Investigator said First Central should remove any record of the cancellation from external databases, write to Mr R to confirm it had done so and pay him £150 for his distress and inconvenience.

First Central didn't agree with our Investigator's complaint assessment so the matter's been passed to me to determine.

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.

In May 2024 First Central sent Mr R an email to let him know it intended to cancel his policy from inception. It said it believed his policy application was linked to a number of others involving an unauthorised third party – a ghost broker. First Central said it viewed this as a "potential misrepresentation". It said that this was a breach of policy conditions.

I'll explain that when taking out insurance policies consumers are required to take reasonable care to answer an insurer's question to the best of their knowledge. If the consumer doesn't do so, that's known in the insurance industry as a misrepresentation. And there's helpful legislation: the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) that sets out what insurers may do when a policyholder's made a misrepresentation.

The action an insurer may take depends upon whether the misrepresentation is categorised as either:

- Careless
- Deliberate or reckless.

Where a consumer has made a misrepresentation which is deliberate or reckless then insurers may avoid the policy.

But where any misrepresentation is careless then an insurer has other options. Notably, where, but for the misrepresentation, an insurer would have charged a higher premium than CIDRA allows the insurer to settle any future claims on a proportionate basis. Alternatively, the insurer could ask the consumer if they want to pay the higher premium and if not allow the consumer to cancel the policy themselves.

So I need to decide whether or not it was fair for First Central to say that Mr R had made a misrepresentation and if so what category that misrepresentation fell into.

I understand that Mr R initially applied for his policy online via a comparison website, which was the same website he used when taking out the earlier policy in 2022. Mr R told us that he applied for the policy alone and didn't have any help when doing so. He said the comparison website has some of his details saved to his account with it.

First Central said that the answers Mr R gave when applying for the policy matched a pattern of answers given by a number of other consumers who, First Central believes, have all used the services of a ghost broker. However, First Central told us that it lacked "empirical evidence" that Mr R had used a ghost broker. But it said that the likelihood of so many consumers answering questions in such a similar manner was unlikely to be genuine. So it said that it believed Mr R has made misrepresentations when answering those questions.

But I've seen no evidence that First Central did any investigation into Mr R's individual circumstances to establish if he had in fact used a ghost broker or failed to take reasonable care to answer the questions it's referred to. And, for some of those questions, if Mr R had answered them reasonably, he should have been able to provide evidence to support that. For example First Central doubted whether Mr R had accurately reported his employment. So it could have asked for verification of it. That would have been a fairly simple task but it's shown us no evidence it did that.

Instead, without actual evidence or having conducted an investigation, First Central has made an assumption that because Mr R's pattern of answering questions fitted a certain model then he must have made a deliberate or reckless misrepresentation. On that basis it's avoided his policy. I don't think that was fair.

I'll explain that an insurer taking action to cancel a consumer's motor insurance policy can have significant consequences for the policyholder concerned. That's because many insurers will see an individual who's been the subject of such a cancellation as a high risk. And some insurers will refuse to insure an individual in those circumstances or will only do so for an inflated premium. So insurers must have robust reasons to cancel a policy before it takes that action.

Similarly, the onus is on First Central as the insurer to 'show' that any misrepresentation is deliberate or reckless. The burden of proof does not lie with Mr R to show that any misrepresentation was not deliberate or reckless. I'm not satisfied that First Central's suspicions amount to robust reasons which justify it avoiding the policy.

I'll add that there is tangible evidence that Mr R made a misrepresentation when declaring his no claims discount (NCD). That's because when he applied for his policy in 2022 he said

he had one year's NCD. But, when he applied for the policy in 2024 he said he had seven years' NCD. Clearly both things can't be correct. His NCD couldn't have increased by six years in the space of only two.

We asked Mr R if he could explain the above discrepancy. He told us it could only have been a mistake on his behalf and he hadn't actually noticed it. But, while there's no doubt that Mr R did make a misrepresentation I don't think that means that First Central's action in avoiding the policy in the way it did was fair.

First Central told us that if Mr R had correctly declared his NCD then his premium would have increased by around £268. So, unless First Central could reasonably *show* that Mr R had deliberately or recklessly misrepresented his NCD then it should have either asked him to pay the additional premium or told him it would settle any future claim on a proportionate basis. Alternatively, at the very least it should have advised him he could cancel the policy himself.

But because First Central deemed Mr R's misrepresentation to be deliberate or reckless it avoided the policy. I've already said that First Central hasn't provided me with any tangible evidence to show that Mr R made a deliberate or reckless misrepresentation. And it has itself acknowledged that it lacked "empirical evidence" that Mr R used a ghost broker. So I don't think it had sufficient evidence to reasonably and robustly conclude that Mr R had made a deliberate or reckless misrepresentation or breached its policy's terms and conditions. So I don't think it was fair that it avoided Mr R's policy. And, if its concerns were so great that it no longer wished to insure Mr R, given the lack of evidence, I think it should have offered Mr R the option of cancelling the policy himself. But it didn't do that.

It follows that I don't think First Central dealt with the matter fairly. So I've set out below what First Central needs to do to address the impact of its unfair avoidance of the policy on Mr R.

Putting things right

If First Central hadn't cancelled the policy then it would have, by now, expired in any case. So First Central can't offer the options CIDRA allows for a careless misrepresentation. Also my understanding is that Mr R has been principally driving a different car under a new policy with terms somewhat different to the First Central policy. In those circumstances it's not possible to make a like-for-like comparison of the avoided policy with Mr R's replacement. And establishing redress is not a straightforward process. But in order to provide redress I think it's fair that First Central Underwriting Limited must:

- Remove any external record of the cancellation/avoidance. If it's unable to do that it should amend those records to show that the policy was cancelled at Mr R's instruction.
- Give Mr R a letter explaining the above action that he can give to his current or future insurers.
- In recognition of the distress and inconvenience the incorrect handling of the cancellation has caused Mr R, pay him £150 in compensation.

My final decision

For the reasons set out above I uphold this complaint. I require First Central Underwriting Limited to take the steps set out under the heading of 'putting things right' above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 6 August 2025.

Joe Scott
Ombudsman