

The complaint

Mr S complains that Covea Insurance plc unfairly declined a claim on his commercial vehicle policy and then cancelled it as if it hadn't existed (known as avoidance).

In bringing this complaint Mr S has received help from his son. But for simplicity I'll refer to his son's comments as being Mr S's.

What happened

Mr S bought a van which had previously belonged to one of the emergency services. He applied for a policy online to insure it and chose one offered by Covea. The broker selling the policy rang Mr S and asked him some questions to validate it. Of particular relevance to Mr S's complaint the broker said:

"It's three seater, right hand drive, it's not modified in any way?"

Mr S replied "no".

Some months later Mr S's van was damaged beyond repair in a fire. He claimed for its loss on the policy. Covea initially offered to settle the claim but Mr S was unhappy with the valuation it put on his van. When looking into that Covea noted the van had been modified to include a second row of seats, making it a four seat van. It then told Mr S that if he'd told it about the modification it wouldn't have offered him the policy. It believed Mr S had made what's known as a qualifying misrepresentation when he took the policy out. And as it wouldn't have offered the policy at all but for that misrepresentation it voided the policy and returned Mr S's premium.

Mr S complained. Covea didn't uphold it. Mr S brought his complaint to the Financial Ombudsman Service. One of our Investigator's looked into it. He didn't think Covea needed to take any further action.

Mr S didn't agree with our Investigator's complaint assessment, so it'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.

Having done so I'm not going to uphold it.

In bringing this complaint and responding to our Investigator's assessment of it, Mr S has made a number of points. I've looked at everything on file and listened to Mr S's calls with our staff. But I don't intend to address each and every point raised by either party to the complaint. That's because I don't think I need to in order to explain the reasons for my decision. Instead I have focused on what I see as being the key matters at the heart of Mr S's complaint.

Did Mr S make a misrepresentation?

The Covea policy Mr S bought is called a commercial vehicle policy. But Mr S said he only wanted the policy to cover social domestic and pleasure purposes, which excluded business use. So I'm satisfied that he wanted a consumer policy for private use rather than a commercial policy aimed at business users.

When buying such a policy, the consumer is 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 Misrepresentations) Act 2012 (CIDRA) that sets out what insurers may do when a policyholder's made a misrepresentation. So I need to decide whether or not it was fair for Covea to say that Mr S had made a misrepresentation.

I understand that Mr S initially applied for his policy online. After he'd confirmed that he wanted the Covea policy, the broker selling it rang him to validate some details, including the number of seats, and if the van had been modified. Mr S's answer indicated that his van had three seats and had not been modified.

The broker didn't explicitly ask Mr S a question about how many seats the van had. But I think Mr S clearly understood that the broker was asking him to confirm that it was a three seater van, which he did. Mr S told us that, at the time he spoke with the broker, he had removed the fourth seat from the van, so it was accurate to say that it was a three seater. Mr S explained that the fourth seat was rarely used. And as it was not a permanent seat he had no reason to disagree with the broker's statement that it was a three seater van. In other words he believed he answered correctly when he said it was a three seater.

However, while I understand Mr S's argument here, I don't think that he took reasonable care to answer the broker's questions.

My understanding is that the van had originally been designed, and left the factory, as a three seater van. And all three of those seats would have been in a single row in the front of the van with no seating at all in the back. But the emergency service had modified it so it only had two seats, rather than three, in the van and the ability to fit two further, removable, seats in the back. So, regardless that Mr S's van only had three seats in it at the time he spoke with the broker I don't think it was reasonable to describe it as a three seater van.

I say that as, following Mr S's own arguments, the third seat in the back of the van was also not a permanent seat. That is it could be removed or refitted as easily as the fourth seat. In those circumstances, if he didn't think the fourth seat should be counted, I'm not sure why he'd think the third seat should be. So, applying Mr S's logic, he would have described the van as a two seater, not a three seater.

Also, Mr S was well aware that when he bought the van it came with four seats until he decided to remove one of those. But the broker couldn't have been aware of that. So when addressing the broker's point to him, he might have described the van as a two seater or a four seater. But I don't think it was reasonable for him to agree it was a three seater van without further explanation.

Mr S also said that despite the modifications the van's V5 still described it as a three seater. He said this had caused some confusion and, as the van's legal document, given who had previously owned it, he thought it was reasonable to still describe it as such. But I'm not persuaded by that argument.

When Mr S bought the van it had four seats. If he didn't consider the removable seats should be counted then it was a two seater. The V5 clearly hadn't been updated to reflect the modifications that changed the seating arrangement. And while Mr S might have been surprised that the vehicle's previous owners, or the dealer that sold the van, hadn't updated the V5, this didn't change the reality of the situation. That is that the van was not a three seater.

But, even if I accepted that Mr S genuinely thought of his van as being a three seater, I also need to consider whether he should have answered the broker's questions about modifications differently. There's no suggestion from Covea or anyone else that Mr S had himself modified the van. The key question is whether he ought reasonably to have known that the van's previous owner, an emergency services provider, had modified it.

Mr S told our Investigator that he didn't know the van had been modified. But, when he spoke with one of our call hub advisers soon after raising his complaint, he said that the van had been modified by its previous owners. Although he didn't know what those modifications entailed.

Further I've seen photographs of the van both before and after the fire. And, apart from the rear seats, it has things like an internal door, caging and additional windows which don't appear to be standard. So I think it's clear that the emergency services provider had altered the van from the standard factory fittings for its specific use. So it seems more likely than not that Mr S was aware that the previous owner had modified the van.

Mr S told our Investigator that he couldn't comment on what had happened to the van before he bought it. I accept Mr S's evidence that he didn't know exactly what modifications the previous owner had done to the van. But he did appear to be aware that it had carried out some modifications. The broker asked him if the van had "any modifications at all". I think that question is clear. It didn't ask Mr S if he had carried out any modifications, only if it had been modified. And as I've said above I think Mr S would have known that the van had been altered.

So, when he answered "no" to the broker's question about modifications, I don't think he took reasonable care to answer it. Instead his answer should have been 'yes' or something similar to 'I think so'. He could then have explained that it was an ex emergency services vehicle which had been modified for use in that service. He could also have explained that he didn't know exactly how the van had been modified.

In those circumstances it would then have been up to Covea (or the broker acting on its behalf), to ask further questions to establish the extent of the modifications. I think if that had happened, it's more likely than not that Covea would have established that the van had been modified to allow it to carry additional seating. And as that wasn't a risk it wanted to cover the policy offer would have been withdrawn at that stage.

I understand Mr S had no intention to mislead the broker or Covea, and there is no suggestion from any party that he was deliberately dishonest. But for the reasons given above, I don't think he took reasonable care when answering the broker's questions about whether or not the van had any modifications at all. And his mistake when answering that question means that he made a misrepresentation, albeit he had no intention to do so.

Was the misrepresentation a qualifying one?

In order for an insurer to have a remedy under CIDRA a misrepresentation must be regarded as 'qualifying'. That means the insurer would need to demonstrate that, but for the

misrepresentation, it either would not have offered the 'contract' – otherwise known as the policy – at all, or would have only done so on different terms.

Mr S doesn't believe Covea is being honest when it said that it wouldn't insure a four seater van. And he ran a dummy insurance quote where he gave the details of another van as being a four seater and Covea provided a quote to offer the policy. So he believes this is evidence that Covea would insure a four seater.

However, I've seen the relevant extract of Covea's underwriting criteria. Those are the internal rules it follows when deciding whether or not to offer policies. And the relevant criterion is that Covea won't offer a policy where the van has been modified to allow additional seating.

So it's not the fact that the van had four seats that was the issue. Instead it was the fact that the modifications allowed for extra seating which put the van outside of Covea's underwriting criteria for offering cover. It follows that Mr S's ability to find a quote from Covea for a four seater van would only be relevant if he'd also said that the van had been modified to allow extra seating. I've seen no evidence that was the case.

I'll add that Covea hasn't explained why it wasn't prepared to cover vans modified in this way. But I don't think it needs to. Insurers are entitled to decide for themselves what risks they will and will not cover. And each insurer will assess risk factors in its own way. That's something they're entitled to do. So I haven't sought to ask Covea to justify the underwriting criterion which it applied in this case.

Ultimately, if Mr S had taken more care to answer the broker's questions about the modifications then Covea wouldn't have offered him the policy. And that means that the misrepresentation, while in no way intended, is a qualifying one.

Was it fair for Covea to void Mr S's policy?

As I've said above Mr S didn't deliberately give Covea the wrong information. But I don't think that makes a difference here. CIDRA sets out what insurers may do when a policyholder has made a qualifying misrepresentation. It categorises misrepresentation as falling under one of two definitions:

- careless, or
- deliberate/reckless.

Covea hasn't said that Mr S's misrepresentation was deliberate/reckless, but thinks it was careless. And I agree. But, in either situation CIDRA allows the insurer to void the policy. And if it hadn't been for Mr S's careless misrepresentation Covea wouldn't ever have offered him the policy. So I think it was reasonable for it to follow the remedy which CIDRA allows and to void the policy in these circumstances.

As I've said above I don't think Mr S set out to be dishonest. And I have considerable sympathy with the position he now finds himself in. But I also think that Covea has acted fairly and reasonably in the circumstances.

My final decision

For the reasons given above I do not uphold this complaint.

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

Joe Scott
Ombudsman