

The complaint

Ms C complains about how AA Underwriting Insurance Company Limited (AA) has handled and settled a claim made on her motor insurance policy. She wants her claim paid and compensation for her trouble and upset.

What happened

Ms C's car was stolen and not recovered, and she made a claim on her policy. But she was unhappy with the valuation AA made on her car, and that it deducted an amount from the settlement as it said she had misrepresented her motoring history. And she was unhappy with delays in the claim and confusing correspondence.

AA said it had caused delays, and it didn't communicate with Ms C adequately. It paid Ms C £150 compensation for this and a further £100 compensation for not explaining how her settlement had been reduced. But Ms C remained unhappy.

Our Investigator recommended that the complaint should be upheld in part. She thought AA's valuation of Ms C's car was sufficient for her to replace it. She thought Ms C had made a careless misrepresentation and so AA was entitled to reduce the settlement proportionately. She thought its offers of compensation for the delays and communication failings was fair and reasonable.

But she thought AA had caused confusion about the proportionate settlement of the claim. She said it should recalculate this and pay Ms C the difference in settlement with interest. And she thought it should pay Ms C a further £300 compensation for the distress caused by its calculation errors in arriving at the settlement.

Ms C replied that she was happy with these recommendations. But AA replied asking for an Ombudsman's review, so the complaint has come to me for a final decision. It said it had told Ms C multiple times that she would receive a settlement of 69% of the car's market value. And it said it made one error in mis-stating the premium she should have paid. It thought it had already compensated Ms C for this sufficiently.

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 can understand that Ms C is upset about the loss of her car. She has explained that this has had an effect on her family. And I was sorry to hear about this. I can also understand that she wants a fair settlement for the loss of her car. Our approach in cases like this is to consider whether the insurer's acted in line with the terms and conditions of the policy and fairly and reasonably.

I'll first consider AA's valuation of the car, which was £21,092.50. Ms C said that she'd seen similar cars advertised for higher prices and so she was disappointed with AA's offer. She said she couldn't buy a replacement car for this amount.

Ms C's policy provides for the car's market value in the case of its total loss. I can see that this is defined in the policy booklet as:

“The cost of replacing the Insured Car with one of the same make, model, age, mileage, specification and condition at the date of accident or loss.”

The Investigator has explained this service’s approach to car valuations. We don’t provide valuations for cars but look to whether the insurer’s offer is reasonable. In most cases, we assess the market value as the price which the consumer would have had to pay for a comparable vehicle across the various markets, immediately before the time of the damage or loss.

This could be slightly less than advertised retail prices, although this will depend on the most likely market for the particular age and model of vehicle. Because of recent changes in the market, we are increasingly hearing of cars selling either for or close to their advertised price.

Assessing the value of a used vehicle isn’t an exact science. We generally find the valuations given in motor guides most persuasive. These guides are based on extensive nationwide research of likely selling prices. We also take all other available evidence into account, for example, engineer’s reports, advertised prices and independent valuations.

Our Investigator thought AA’s settlement offer was fair and reasonable. So I’ve checked how she came to this conclusion. I can see that she looked in the motor valuation guides we use for cars of the same make, model, age, mileage, condition and optional extras as Ms C’s car at the date of its loss.

Ms C provided adverts for similar cars advertised at higher prices. And I have considered these and looked to see where the advertised cars are identical to Ms C’s. One was persuasive and the valuation was higher than AA’s offer. AA also provide adverts for similar cars advertised at prices lower than its offer to Ms C. And I think two of these were close enough to Ms C’s car to be persuasive.

Given the current challenges in the used car market the motor valuation guides have a wider range of values than we have seen previously. And we think going by the highest will ensure consumers have received a fair offer, allowing them to replace their car with one of the same make, model and specification. So we now expect insurers to pay the highest of the valuation guides, unless they are able to provide us with evidence which supports a lower valuation.

AA had provided a valuation of £21,092.50, which was higher than the valuations provided by the guides. I think its evidence shows that Ms C could replace her car for this amount. And so I’m persuaded that AA’s offer was fair and reasonable as it was made in keeping with our approach and the policy’s terms and conditions. I don’t require it to increase this.

AA reduced its settlement to a proportionate amount of the car’s valuation. When Ms C complained, it said she’d answered the question she’d been asked about motoring convictions within the previous five years incorrectly. And that it considered this to be a careless qualifying misrepresentation, which entitled it to settle her claim proportionately.

The relevant law in this case is The Consumer Insurance (Disclosure and Misrepresentation) 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. One of these is how clear and specific the insurer’s questions were. And

the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless or careless.

If the misrepresentation was reckless or deliberate and an insurer can show it would have at least offered the policy on different terms, it is entitled to avoid the consumer's policy. If the misrepresentation was careless, then to avoid the policy, the insurer must show it would not have offered the policy at all if it wasn't for the misrepresentation.

If the insurer is entitled to avoid the policy, it means it will not have to deal with any claims under it. If the qualifying misrepresentation was careless and the insurer would have charged a higher premium if the consumer hadn't made the misrepresentation, it will have to consider the claim and settle it proportionately if it accepts it.

AA thinks Ms C failed to take reasonable care not to make a misrepresentation when she stated in her application via a comparison site that she had no motoring convictions within the previous five years. And I've looked at the question she was asked when she completed the application, and I agree she failed to take reasonable care.

This is because she was asked:

"Have you had any driving related convictions, endorsements, penalties, disqualifications or bans in the past 5 years?"

And she was provided with advice so that she could answer this question correctly. And so I think this was a clear question asked by AA through the comparison site Ms C used.

Ms C said "No" she's explained that this was because she'd made an error. In fact, Ms C had two motoring convictions that she should have disclosed. And I think this means Ms C failed to take reasonable care not to make a misrepresentation when she said she had none.

AA has provided evidence which shows that if Ms C had not made this misrepresentation, it would have charged her a higher premium. This means I am satisfied Ms C's misrepresentation was a qualifying one under CIDRA.

I also think Ms C's misrepresentation was a careless misrepresentation. This is because AA hasn't provided evidence to show that Ms C intended to answer the question incorrectly. So I'm satisfied it was an oversight.

As I've said above, if the qualifying misrepresentation was careless and the insurer would have charged a higher premium if the consumer hadn't made the misrepresentation, it will have to consider the claim and settle it proportionately if it accepts it. Therefore, I'm satisfied AA was entitled to settle Ms C's claim proportionately in accordance with CIDRA and I think this produces the fair and reasonable outcome in this complaint.

As the misrepresentation was undisclosed motoring offences, this changes the risk associated with Ms C's policy which demonstrably affected the underwriting criteria it would have been considered under. While I'm unable to share this as it is commercially sensitive information, I'm satisfied that AA would have charged a higher premium had it been aware of the motoring offences.

AA initially told Ms C twice that she had paid only 69% of the premium she should have paid. And so it said it would pay her 69% of the car's pre-loss value and deduct the policy excess. And in its response to Ms C's complaint, AA repeated this three times.

But this letter mis-stated the amount by which the premium should have been increased. And it seemed that the amount Ms C paid was 80% and so the settlement should have been 80% of the valuation. Ms C was confused by this miscalculation. AA said it corrected this in a subsequent letter sent two weeks later. In this letter it set out the calculations of the premiums with and without the convictions disclosed showing that Ms C had only paid 69% of the premium she should have paid:

*"1,810.23/ 2,643.57 * 100= 69.47 (Rounded up to 69%)"*

But an earlier letter had stated:

“Annual premium paid £1220.63 / Correct annual premium £1782.72 x 100 = 68.47 (69%)”

The premium stated on Ms C's Welcome Letter was £1,220.63. I can't see that AA has explained why the stated initial annual premiums are different, although the proportion remains the same. I think it was reasonable for Ms C to ask for a calculation of how her settlement had been arrived at. And I can understand that Ms C felt confused by AA's error in its response to her complaint. And then this was compounded by the further error in its clarification letter.

I'm satisfied that this was integral to the claim rather than simply part of complaint-handling, and so I can consider this here. Ms C was left feeling that she had been cheated out of thousands of pounds. I think it was reasonable for Ms C to feel that AA was not being transparent in its service, and this caused her avoidable stress and upset.

Where repeated errors have had such an impact on a consumer, we think compensation is warranted. And I think the Investigator's recommendation of £300 further compensation is fair and reasonable as it's in keeping with our published guidance. And, to restore her position, I think AA should set out for Ms C the correct calculation.

AA has already paid Ms C £250 in total compensation for the three week's delay in progressing her claim and for its poor communication with her. I think that's fair and reasonable as it's in keeping with our published guidance.

Putting things right

I require AA Underwriting Insurance Company Limited to do the following:

1. Recalculate the settlement figure, clarifying the cost of the premium that should have been paid, and making the subsequent proportional deduction clear to Ms C.
2. Pay Ms C £300 further compensation for the distress and inconvenience caused by the confusion and calculation errors in its correspondence.

My final decision

For the reasons given above, my final decision is that I uphold this complaint in part. I require AA Underwriting Insurance Company Limited to carry out the redress set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 10 September 2025.

Phillip Berechree
Ombudsman