

The complaint

Mr O complained that Zurich Insurance Company Ltd treated his motor insurance policy as void from the start.

What happened

After Mr O had an accident Zurich declared his policy as being void from outset and would not accept his claim. This was because he did not disclose two speeding offences when he took out his policy. They said that if he had disclosed these, they wouldn't have insured him at all. They said that this was a reckless qualifying misrepresentation entitling them to treat the policy as if it had never existed.

The investigator didn't recommend that the complaint be upheld. He thought that Mr O had made a reckless misrepresentation and so it wasn't unfair for Zurich to avoid his policy. Mr O didn't agree and so I've been asked to decide.

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.

The relevant law here is the Consumer Insurance (Disclosure and Representations) Act 2012. As the investigator noted, it says that a consumer needs to take reasonable care not to make a misrepresentation when taking out an insurance policy. If a consumer fails to take reasonable care, and their misrepresentation is a qualifying one, the insurer can take certain actions.

So I have looked at whether Mr O did take reasonable care not to make a misrepresentation, whether that misrepresentation was qualifying, and whether Zurich's actions then were in line with CIDRA. If a reckless misrepresentation has been made, under CIDRA can void the policy, keep the premiums Mr O has paid, and recover from him what money they may have paid out to a third party.

Mr O took out the policy in about September 2024. When he made his accident claim a few months later, Zurich discovered that he had two SP30 speeding offences dated 16/02/2022 and 06/11/2021.

Reasonable care

Zurich said Mr O didn't take reasonable care when took out his policy via an online insurance comparison website, in that he didn't disclose the two speeding offences. Zurich said this was a reckless non-disclosure and so Mr O had made a reckless qualifying misrepresentation under CIDRA.

Mr O accepted that had not disclosed the two speeding offences when he took out the policy. But he said he had not deliberately made a misrepresentation. He said it was a misunderstanding because Zurich asked him about convictions, but he didn't think that the speeding points were convictions because he hadn't been taken to court or received a verdict from a judge or jury.

He said that the misunderstanding was caused by Zurich's choice of words, and he hadn't been asked clear and unambiguous questions. He thought that Zurich should have amended his policy instead of treating it as void to avoid indemnifying him. He felt that Zurich were short-changing policy holders.

I've looked at what Mr O was asked when he applied for his policy. Mr O applied via an insurance comparison website which asked him the following question:

"Have any drivers had any motoring convictions, driving licence endorsements, or fixed penalty points in the last 5 years?"

That is followed by *"Where can I find this information?"* which links to a government website which allows a consumer to check their own information using their driving license and national insurance information.

Mr O answered No to this question. But that wasn't correct because he did have SP30 points. The question didn't just ask about convictions, so even if Mr O didn't think that his fines were convictions, he should reasonably have known that his SP30s were driving licence endorsements, or fixed penalty points. And so he should have answered Yes to that question and disclosed them. As the investigator has explained, the standard of care required is that of a reasonable consumer, and the actions an insurer can take when this is shown will depend on the nature of the misrepresentation. That is, whether the consumer made the misrepresentation deliberately or recklessly or that it was simply careless.

Zurich also said that their Statement of Fact didn't include all his speeding points as it should have, and that gave Mr O a clear warning that he should check it carefully and if any information was incorrect to contact Zurich immediately because they might avoid the policy. But Mr O said that Zurich's Statement of Fact only asked him about convictions, not driving licence endorsements, or fixed penalty points. But Mr O said that because that wording was about convictions, he didn't disclose his SP30s. I've looked at the Statement of Fact and I agree that does ask consumers to disclose convictions of driving offences. Mr O said it was also confusing that Zurich also talked of convictions when they were asking him post-claim about why he didn't disclose the SP30s. I agree that Zurich's staff did refer to convictions, and also used terms like *"speeding tickets"* and *"the speeding"* during their claim investigation.

But as our investigator has said, the Statement of Fact and the claim handling questions came at a later stage. Zurich had already agreed to insure Mr O by then, based on his answer to the comparison site question above, in which he misrepresented the position. That was the crucial question, and it was clear and specific. Zurich have shown us their underwriting criteria that confirm they wouldn't have insured Mr O at all if he'd answered the question correctly and declared his SP30s, and whether Zurich will insure or not is a commercial decision for them to decide. So I'm satisfied that this misrepresentation was a qualifying one. And though Mr O has showed us wording from another insurer which he considers to be clearer and unambiguous, I can't take another insurer's questions into account. I can only look at what Mr O was asked.

Mr O has also said that CIDRA didn't require him to check a government website to confirm their details and it was up to the questioner to clearly specify what information they wanted him to disclose. However I think that the insurance comparison website question was not only clear and specific, but it provided sufficient information to enable a consumer to answer the question correctly, and a consumer with speeding points on their licence should have reasonably understood that's what the question was asking about and should have disclosed them. The specific question was asked to obtain the information needed in order to decide whether or not to insure Mr O. He knew that the matter to which the misrepresentation related was relevant.

I think that Mr O did not take reasonable care not to make a misrepresentation when he failed to disclose the two speeding offences. And so this was a reckless qualifying

misrepresentation under CIDRA. And because Zurich have shown that they wouldn't have offered cover at all without the misrepresentation, under CIDRA they can avoid the policy. This means that Zurich can treat it as if it did not exist from the start and keep the premiums. However they have chosen to return his premiums, and I think that's fair. I think they have shown sufficient evidence to support their decision to avoid the policy.

Although I realise that Mr O may find this decision disappointing, I don't think that Zurich have acted unfairly and so I don't require them to do anything different.

My final decision

For the reasons given above, it's my final decision that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 24 September 2025.



Rosslyn Scott
Ombudsman