

The complaint

Mr M is unhappy that Financial & Legal Insurance Company Ltd (“FLICL”) didn’t refund his premium after cancelling his policy.

What happened

The background to this complaint is well-known to both parties, so I’ve summarised what I think are the key events.

In July 2024, Mr M bought two home emergency policies online, one of which was for a tenanted property. Both policies were underwritten by FLICL.

FLICL noticed that there were two policies for two different properties and tried to contact Mr M to check whether one was a rental property. During a subsequent conversation with FLICL, Mr M confirmed he was the landlord for one of the properties. Because it didn’t provide landlord cover, FLICL cancelled the policy with immediate effect and refunded the part-month premium for the period after cancellation. It waived the £35 cancellation fee.

Mr M complained because he thought FLICL should refund the full premium. FLICL issued a final response to say that it was entitled to keep the premium paid up to cancellation because Mr M had provided incorrect information when he bought the policy.

Unhappy with FLICL’s response, Mr M brought his complaint to us.

Our investigator thought it was a complaint we should uphold because FLICL hadn’t given Mr M 14 days’ notice of cancellation. Our investigator thought FLICL ought to refund the full premium, record the cancellation as being requested by Mr M, and pay interest on the premium from the date paid until the date it was refunded.

Mr M accepted the outcome, but FLICL didn’t agree. It said Mr M had agreed to the statement that he was the residential property owner and occupier, so it was entitled to keep the premium.

I issued a provisional decision in June 2025 explaining that I was intending to uphold Mr M’s complaint but for different reasons. Here’s what I said:

To begin with, I’ll clarify the rules under which I’ve considered this complaint. The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) 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. The Insurance Act 2015 is relevant to commercial properties.

The provisions of CIDRA and the Insurance Act are broadly similar so, in the circumstances, I’ve considered this complaint under the rules set out by CIDRA. That’s because, while Mr M’s interest in the property was commercial, the policy he bought was for a residential property to provide cover for the occupiers.

When Mr M bought the policy, he agreed to the following statement:

- *I confirm I am the residential owner and occupier of the property, my property is not a mobile or park home and is not left unoccupied for more than 60 consecutive days.*

When he spoke to FLICL, Mr M confirmed he let the property to tenants. Therefore, he wasn't the residential owner and occupier, so he'd given FLICL incorrect information – he'd misrepresented the circumstances.

FLICL confirmed that it doesn't provide cover for landlords, so it wouldn't have sold the policy if Mr M had provided the correct information. This means the information Mr M gave at the time of purchase was a qualifying misrepresentation – that is, it would've made a difference to whether FLICL provided cover.

When FLICL noted that Mr M had two policies for different addresses, it contacted him to check whether one policy was for a rental property. FLICL provided phone records evidence showing that it had spoken to Mr M in August 2024, and he had asked it to call back the following week. Mr M spoke to FLICL on 13 September confirming it was a rental property. FLICL said it wouldn't provide cover and cancelled the policy with immediate effect. It refunded the part payment for the period after cancellation and waived the cancellation fee, but it kept the policy premium.

Under CIDRA, FLICL is entitled to keep the premium where a qualifying misrepresentation has been made and which it considers was deliberate or reckless. As Mr M confirmed the statement that he was the residential owner and occupier, despite being the landlord, I think it was reasonable for FLICL to conclude that he'd not made a fair presentation of the risk. Therefore, under CIDRA, FLICL was entitled to keep the premium.

Based on the evidence, I'm satisfied that FLICL handled the cancellation of Mr M's policy in line with the remedy available to it under CIDRA. However, on considering the overall circumstances, I don't think it was fair that FLICL kept the premium. That's because, in effect, the policy didn't exist. FLICL didn't provide cover for landlords so any claim Mr M made would've been unsuccessful. Therefore, he paid a premium for something that simply wasn't available to him, albeit due to his mistake.

So, although FLICL was entitled to keep the premium under CIDRA, Mr M would never have benefitted from the policy and there was no risk to FLICL. Therefore, I think it's fair in the circumstances that FLICL refunds Mr M's full premium for the rental property.

I've thought carefully about whether FLICL ought to pay interest on the refund due to Mr M. Having done so, I'm not intending to make that a requirement. The reason for this is that FLICL retained the premium in line with the remedy available to it under CIDRA, so it didn't do anything wrong there as I've already explained. I'm intending to ask FLICL to refund the premium simply because I think it's the fair thing to do in the circumstances. FLICL waived the cancellation fee, which I think was also fair in the circumstances.

I asked FLICL to confirm what it has recorded in respect of the policy cancellation. For example, whether it recorded a qualifying misrepresentation. FLICL said "where a policy is cancelled, our understanding is that the notification simply confirms the cancellation, and no further record is typically generated".

Based on this evidence, it seems that the cancellation has not been recorded in a manner which will affect Mr M's ability to obtain insurance. However, I think it's reasonable for FLICL to provide clarification for Mr M whether the cancellation is something he ought to declare.

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Responses

Mr M didn't respond to my provisional decision.

FLICL provided confirmation of evidence requested during the investigation, but it didn't make any comment in direct response to my provisional 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.

As FLICL hasn't said anything to the contrary, I'm taking any comments it made to mean they don't object to my provisional decision. Nevertheless, as neither FLICL nor Mr M provided a direct response to my provisional decision, I've looked again at the evidence.

Having done so, I remain of the view that the outcome I proposed is fair and reasonable in the circumstances.

Although Mr M didn't respond, the outcome is not significantly different to that proposed by our investigator. And as he accepted the investigator's view, I think it's reasonable to conclude he remained happy with my provisional view.

The comments FLICL provided related to confirmation that information requested during our investigation had been provided by its agents. FLICL had disagreed with our investigator's view, and, as I've said, my provisional decision is not significantly different. However, I've explained why I think it should return Mr M's premium. I understand FLICL would've been following industry rules by retaining the premium, but as Mr M would never have been able to benefit from the policy, I think it's only fair and reasonable in the circumstances to issue the refund.

As neither Mr M nor FLICL have provided anything to change my view, I see no compelling reason why I shouldn't now adopt my provisional view as my final decision.

My final decision

For the reasons I've explained above, and in my provisional decision, my final decision is that I uphold Mr M's complaint and Financial & Legal Insurance Company Ltd must:

- refund the premium for the rental property, and
- provide clarification for Mr M whether the cancellation is something he ought to declare when seeking to buy insurance in the future.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 30 July 2025.

Debra Vaughan
Ombudsman