

The complaint

Mr G and Mr K complain that Haven Insurance Company Limited ('Haven') voided their motor insurance policy and didn't pay their theft claim.

Mr G is the named policyholder and Mr K is a named driver. For ease of reading, references to 'Mr G' include submissions made by Mr K.

What happened

Mr G took out a motor insurance policy underwritten by Haven for himself and his named driver in July 2024. In August 2024, Mr G reported his stolen.

Haven considered the claim but ultimately declined it and voided the policy. They said this was because Mr G hadn't disclosed a previous motoring conviction at inception. They said if they had known about this conviction, they never would have offered to cover him at all. Haven also retained the premiums he had paid, as they said he'd deliberately answered the question incorrectly.

Mr G thought this was unfair and complained to Haven. He explained that the motoring conviction was three years old at that point, so he thought it had expired. And said he'd disclosed his driving license number when taking out the policy so Haven could have checked his record. He also said at the time of the theft the vehicle was being used by the named driver, who didn't have any convictions.

Haven considered the complaint but didn't uphold it. They said a clear question was asked and information had been provided as to what a motoring conviction was, and Mr G should have checked what this meant before answering the question. Mr G remained unhappy with Haven's response to his complaint – so, he brought it to this Service.

An Investigator looked at what had happened and ultimately thought the complaint should be upheld in part. He said that while he agreed Mr G had made a misrepresentation – he thought it would be classed as careless rather than reckless. He said this was because Mr G had explained he understood the speeding offence from September 2020 had expired by the time he took out the policy with Haven as he thought it was valid for three years.

The Investigator concluded that as he considered the misrepresentation to be careless, the remedy available to Haven would be to void the policy as they could show they never would have offered cover, but they'd need to refund the premiums Mr G paid. The Investigator also thought Haven should pay £100 compensation for any distress and inconvenience caused by initially treating the misrepresentation as deliberate.

Haven disagreed with the Investigator's findings. Haven's submissions were:

- The question asked at inception was clear and specific and referred to any motoring convictions in the past five years.
- Links were provided from the comparison site to the Gov.Uk website to enable consumers to check if they were unsure.
- They believed that asking a consumer to check the details of their own motoring

convictions was reasonable and Mr G hadn't taken reasonable care not to make a misrepresentation.

Haven asked for an Ombudsman to consider the complaint – so, it's been passed to me 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.

Having done so, I've reached the same overall conclusion to the Investigator, and I uphold this complaint in part.

Haven said Mr G made a misrepresentation when taking out his policy with them. So, I'm satisfied that the relevant law here 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 take reasonable care, and does make a misrepresentation, 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 must show they would have offered the policy on different terms - or not at all - if the consumer hadn't made the misrepresentation. CIDRA sets out several considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer for a qualifying misrepresentation under CIDRA depends on whether it was deliberate or reckless, or careless.

So, I think the principles set out in CIDRA are relevant and it's fair and reasonable to apply these principles to the circumstances of Mr G's claim. And that means I need to first consider whether Mr G took reasonable care not to make a misrepresentation when he took out the policy. When considering whether a consumer has taken reasonable care, I need to decide whether the questions they were asked were clear. The relevant question asked was:

"have any drivers had any motoring convictions, driving licence endorsements, or fixed penalty points in the last 5 years? If the convictions or points will be equal to or greater than 5 years by the time the policy starts you don't need to include them".

There was a button next to this question that could be clicked to gain further information which stated:

"you can find details about your driving licence record on the Gov website. If your conviction lapses by the time the policy starts will remove it from the information we send to compare quotes."

Mr G answered 'no' to this question. He's said this was because he'd understood his previous conviction to have expired as he thought it was only valid for three years. I can understand why Mr G feels frustrated by Haven's actions. He's explained that Haven's decision to void his policy has had significant consequences for him, as he is paying monthly finance payments for his vehicle and can't afford to replace it. I was naturally sorry to hear this. However, it's important for me to outline that the test under CIDRA as to whether Mr G took reasonable care is one of a reasonable consumer, not one unique to Mr G. This means I must consider what I think a reasonable person would have answered when asked the question he was asked.

Having looked at the question asked, I'm satisfied it was clear enough to prompt a reasonable consumer to understand what Haven was asking. And I think a reasonable consumer would have been able to use this information to ensure the answers they were giving were accurate. I'm therefore satisfied that Haven has demonstrated a misrepresentation occurred when Mr G took out the policy.

I've noted Mr G's submissions that Haven should have checked if the details he'd provided were correct – but I don't find this to be something I can fairly agree with, because doing so ignores the duty CIDRA placed on him to take reasonable care when entering a contract of insurance. This also isn't something I'd expect an insurer to do for every consumer applying for a policy and it doesn't remove Mr G's obligation to provide correct information.

Turning to whether the misrepresentation was qualifying - Haven has provided evidence which shows that, if they had known about Mr G's driving conviction, they wouldn't have provided cover, as it's not within their risk appetite to provide cover in these circumstances. Having considered this evidence, I'm satisfied it shows the misrepresentation was qualifying under CIDRA. So, I think Haven is reasonably entitled to apply the relevant remedy available to them.

Haven classed Mr G's qualifying misrepresentation as deliberate – which CIDRA says is a misrepresentation which the consumer *"knew that it was untrue or misleading"*. Under CIDRA, a deliberate qualifying misrepresentation means Haven are entitled to avoid the policy, refuse any claims, and retain the premiums paid. CIDRA says that it is for the insurer to show that a qualifying misrepresentation is deliberate.

Haven has said this is demonstrated here because Mr G knew he had a motoring conviction that was less than five years old but didn't disclose it. But based on the evidence I've seen, I don't think that Haven can fairly demonstrate the qualifying misrepresentation was deliberate. Based on Mr G's testimony, I'm persuaded he had a belief in what he disclosed and had at least given it some thought. While he was ultimately incorrect – and I agree Haven has shown there was additional information that he could have checked – I think this demonstrates that Mr G made a careless misrepresentation, in that he misunderstood what he needed to disclose.

I say this because the explanatory material provided said *"If your conviction lapses by the time the policy starts, we'll remove it from the information we send to compare quotes"*. I think this is consistent with Mr G's testimony that he understood the conviction didn't need to be disclosed due to its age – and I'm not persuaded that Haven has fairly demonstrated that Mr G intentionally set out to mislead them and provide information he knew was untrue. It follows that I think it would be reasonable to class the qualifying misrepresentation as careless.

The remedy available to Haven under CIDRA for a qualifying careless misrepresentation says that they can avoid the policy where they wouldn't have offered cover at all, refuse all claims, but must return any premiums paid. Haven voided the policy and refused the claim, which I think is fair, but they should refund the premiums paid. I also think that their treating the qualifying misrepresentation as deliberate from the outset was unfair – and I agree this would have caused some additional distress and inconvenience to Mr G over and above the normal process I would expect to see. As such, I think they should pay £100 compensation to account for this.

My final decision

For the reasons given above, my final decision is that I uphold this complaint in part. I direct Haven Insurance Company Limited to refund Mr G's premiums and pay £100 compensation for distress and inconvenience.

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

Stephen Howard
Ombudsman