

The complaint

Mr Y has complained that Astrenska Insurance Limited unreasonably refused his claim under his mobile phone policy on the basis that he wasn't a permanent resident of the UK.

What happened

Mr Y was resident in the UK, under a visa which at the time he bought his mobile phone policy, gave him limited leave to remain in the UK. He bought a mobile phone in September/October 2024 and bought his policy with Astrenska around the same time on 24 October 2024.

On a trip to an EU country for the day on 24 May 2025, Mr Y lost his phone or it was stolen. So he made his claim to Astrenska.

Astrenska's policy requires that the policyholder, when buying the policy, is a permanent UK resident. So when it investigated this in relation to Mr Y's claim, it saw that he wasn't such a permanent resident as he only had limited leave to remain at the time he bought the policy. Therefore it said he didn't answer the question on the application form correctly, so it was refusing his claim, cancelling his policy and returning his premium.

Mr Y appealed but as Astrenska wouldn't change its stance he brought his complaint to us. The investigator was of the view that Astrenska didn't do anything wrong. Mr Y remained dissatisfied so his complaint has 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'm not upholding this complaint. I do understand and appreciate that Mr Y will be very disappointed, so I'll now explain why.

As the investigator explained the issues concern the provisions of the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA).

But before I go through that, I also need to explain under the Financial Conduct Authority's (FCA) regulations, insurers are entitled to decide what risks they want to insure and what risks they don't want to insure. This is part of their commercial discretion. In this complaint there is nothing wrong ostensibly with Astrenska deciding it only wanted to insure consumers who had UK citizenship or permanent leave to remain.

Mr Y raised the issue that Astrenska should have sorted out its issues with his eligibility at the time he bought the policy and not at the time he made the claim. However again under the FCA's regulations, this policy is sold on what is called an 'unadvised basis'. This means that the only duty on Astrenska is to ensure the policy terms plus in this case the eligibility

criteria were available before Mr Y made his decision to buy this policy. Once that is achieved it is for Mr Y to decide himself whether this policy was suitable for his circumstances and that it therefore met his needs. Astrenska gives no advice on whether to buy this policy to any of its customers.

In the application form online, Astrenska has shown me that under its *'now for the legal bit'* it asks the applicant to tick a box that they confirm they're a permanent UK resident and that they are aged 18 or over. Immediately underneath that, it then explains the following:

- *'A permanent UK resident means that you live in the UK and are either a UK citizen or you have received the appropriate documents from the Home Office showing you can live, work and settle in the UK permanently. Essentially you are authorised to stay in the UK indefinitely and without the need to reapply to the Home Office for an extension.'*

Mr Y ticked this box.

In the policy document on page 4, it again details the eligibility of the policy requirement of being a permanent UK resident, which is fully defined in page 5 under the definitions section. I think with both the contents of the application form and the policy document that Astrenska has detailed its UK residency requirements adequately.

During the claims validation process, Astrenska discovered that Mr Y's visa at the time he bought the policy was 'pre-settled status, also known as limited leave to remain.' That meant at that time when he bought the policy, he wasn't authorised to stay in the UK without the need to reapply to the Home Office for an extension once his present visa term expired.

CIDRA, which I mentioned above, covers what happens in these sorts of situations. Essentially, this provides that every consumer is under a duty to take reasonable care not to make a misrepresentation when they take out an insurance policy. The duty on the insurers is to ask clear questions of the applicant. So for the avoidance of any doubt, I consider the fact that Astrenska detailed what it meant by permanent UK resident underneath the tick box, ensured it was a clear question.

So when a consumer doesn't answer the question correctly, the insurer has to show this was a qualifying misrepresentation under CIDRA. That means the insurer has to show what it would have done differently if it had known that Mr Y only had pre-settled status. It's clear that Astrenska wouldn't have accepted Mr Y's application to buy this policy as it doesn't want to insure anyone who isn't a permanent UK citizen, so I consider Mr Y's answer to this question amounted to a qualifying misrepresentation under CIDRA's provisions.

There are different remedies available to the insurer depending on whether they think the applicant was careless or reckless in their misrepresentation. Astrenska decided Mr Y was merely careless, so in line with CIDRA's provisions it cancelled Mr Y's policy and refunded all the premium paid. I consider this was more reasonable and fairer to Mr Y given he was working on getting his residence in the UK to be more permanent too and had done so within a month after he made his claim for his lost or stolen phone. The other option was to consider Mr Y reckless, where Astrenska could have kept the premium amount that he had paid instead of refunding it.

I appreciate Mr Y's thoughts on all of this, however, to conclude Astrenska is under no regulatory duty to do any eligibility verification at the time he bought his policy, given it clearly detailed its eligibility requirements in the application form. This sort of sales practice given it is classed as an 'unadvised sale' by the FCA regulations is also permitted, so it's not unfair and doesn't contravene the provisions of the Consumer Rights Act 2015. Astrenska chose the least harsh remedy under CIDRA for Mr Y, given it's clear the misrepresentation

was a qualifying one under CIDRA too. Lastly Astrenska, like every other insurer, is entitled to verify any claim at the time the claim is made too.

Therefore given the provisions of CIDRA and Mr Y's residency status at the time he bought this policy, it's clear to me that Astrenska hasn't done anything wrong here.

My final decision

So, for these reasons, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 6 March 2026.

Rona Doyle
Ombudsman