

The complaint

Mr M and Mrs K have complained that Wakam avoided their home insurance policy and refused to pay a claim.

What happened

Mr M and Mrs K took out a home insurance policy with Wakam online. They later made a claim for water damage.

Wakam assessed the claim and said Mr M and Mrs K had incorrectly answered the question about previous claims when they took out the policy. And it considered this to be a careless/deliberate or reckless qualifying misrepresentation, which entitled it to avoid the policy, decline the claim and keep the premiums paid.

Mr M and Mrs K brought their complaint to this Service. Our Investigator upheld the complaint. He said Wakam had asked a clear question. Mr M and Mrs K should have declared the previous home emergency claims they had made as these could have been covered by the Wakam policy. He said Wakam had shown this was a qualifying misrepresentation. Wakam wouldn't have offered the policy if it had known there were two previous claims. However, Wakam had said the misrepresentation was reckless and/ or deliberate. But, our Investigator said it should have been treated as careless misrepresentation. So, he said Wakam should record the misrepresentation as careless, return any unused premiums that had been paid and apply 8% interest to any premiums that were refunded.

Wakam accepted the Investigator's findings. However, Mr M and Mrs K didn't agree and asked for an ombudsman decision.

I issued my provisional decision on 22 August 2025. In my provisional decision, I explained the reasons why I was planning to uphold the complaint. I said:

"The relevant law in this case is The Consumer Insurance (Disclosure and Representations) 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. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

Wakam thinks Mr M and Mrs K failed to take reasonable care not to make a misrepresentation when they took out the policy when they answered a question about

previous claims. Mr M and Mrs K said there hadn't been any previous claims. But Wakam later found two claims had been made. It initially said these were accidental damage claims, but later seemed to accept these were home emergency claims.

I've looked at what Mr M and Mrs K were asked when they took out the policy. This was:

"How many claims have been made by the people covered on the policy in the past 5 years, which could have been covered under this policy?"

Having thought about this, I don't think that's a clear question. I think it lacked detail, including the type of cover it was referring to. It also had a hypothetical element to it that relied on a policyholder judging whether a claim could have been covered under the Wakam policy.

There was also further information provided for this question. So, I've read what that said. This was:

"Claims should be declared even if they were declined by the insurer. Claims made on the contents or gadget portions of travel or home insurance policies, or on tenants liability insurance should also be declared."

The type of policy Mr M and Mrs K took out was a buildings and contents policy, to which they added home emergency cover. I think, given the lack of detail in the original question, the wording of the further information suggested that someone applying for the policy might understand that they only needed to declare buildings insurance claims. But Wakam seemed to want to ensure people applying for the policy were aware they should also include contents and gadget claims, as well as tenants liability claims. However, it didn't refer to home emergency claims and that these should also be included.

I'm not currently persuaded from the question asked, or the further information that went with it, that when Mr M and Mrs K applied for the policy they would reasonably be expected to think home emergency claims needed to be included when they answered the question. I think the further information explained what should "also" be included and this didn't refer to home emergency claims. I'm also not persuaded Mr M and Mrs K would have had reason to think they needed to contact Wakam to ask if they needed to include home emergency claims. I think Mr M and Mrs K took reasonable care to answer the question they were asked.

This means I don't currently think Mr M and Mrs K made a misrepresentation and I intend to uphold this complaint. So, I don't think the actions Wakam took by voiding the policy and refusing to deal with the claim were fair or in line with CIDRA.

As a result, I currently intend to say Wakam should reinstate the policy and remove references to its voidance from internal and external databases. It should also continue to consider the claim in line with the policy terms and conditions.

I also think Mr M and Mrs K have been caused inconvenience and upset because of Wakam's actions. So, I also intend to say Wakam should pay them £150 compensation to recognise the impact on them."

I asked both parties to send me any more information or evidence they wanted me to look at by 5 September 2025. Both parties replied before that date.

Mr M and Mrs K said they accepted my decision. Wakam replied and didn't agree with my decision. In summary, it said:

- I had put far too much weight on the policyholder's own distinction that these were home emergency claims, as something different and distinct as claims on their previous home insurance policy. Wakam didn't agree with that distinction. Its position, supported by CUE, was that this is factually incorrect.
- According to CUE, the claims were made as part of a buildings and contents policy and were classed as accidental damage. It said the policyholder had sought to claim this was a separate policy. Wakam didn't believe this was true and was a fabrication by Mr M and Mrs K. If they were claiming this, they needed to provide evidence of it, which they hadn't done so far.
- It didn't agree the question asked was unclear. It asked about claims a customer would reasonably expect to be covered under the policy. Mr M and Mrs K had made two claims under their previous policy and they were purchasing an equivalent from a new provider. Wakam thought any reasonable customer would know an insurer would be interested in previous claims under an equivalent policy.
- Mr M and Mrs K had previously tried to claim they didn't answer the specific Wakam question and should only be judged by the question on the price comparison website. Wakam said they should have answered "yes" when asked on the price comparison website about previous claims made. It also said Mr M and Mrs K could have declared the previous claims on the price comparison website because there was a drop-down category for "*accidental damage*" and "*other*". One of the previous claims was made only a couple of months before the inception of the Wakam policy. So, it said this wasn't something they would have forgotten.
- I had not addressed or referred to Mr M and Mrs K's attempt to fabricate evidence. They had quite clearly tried to provide a quotation journey with Wakam's own pages interspersed with pages not from its site to try and make their own credible version of events. This was deliberately misleading and should be taken into account when assessing Mr M and Mrs K's trustworthiness in their claims about how they considered and responded to the questions at time of purchase.
- Mr M and Mrs K had made a claim on a previous home insurance policy. They were trying to create a distinction that doesn't exist in order to overturn a reasonable 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.

Having done so, I uphold this complaint and for the reasons given in my provisional decision. As part of that, I've thought about Wakam's comments, but these don't change my view about what I think is a fair and reasonable outcome to this complaint.

The main reason I didn't think Mr M and Mrs K had made a misrepresentation was because I didn't think they were asked a clear question. Wakam's comments about my provisional decision only briefly commented on this and didn't directly address the issues I raised about the lack of detail in the question and it seeming to have a hypothetical element to it that relied on the customer's judgement of how a claim would be considered. Wakam also didn't address the issues I raised about the further information provided for the question. I remain of the view that it wasn't a clear question.

Wakam has said it doesn't accept these were home emergency claims and that it was reasonable for it rely on CUE saying they were accidental damage claims. When Wakam responded to the complaint, it explained why it had voided the policy. This included the following:

"In your email response, you let us know that you did not declare the claims due to being unaware that you had to declare home emergency claims.

...

As outlined in the screenshots above, we state that any previous claims should be declared when taking out a policy with us regardless of the claim outcome. This includes home emergency cover as you chose to add that to your policy.

...

After we received your claim, we discovered that you've made two claims prior to purchasing your policy that could have been covered under your current policy. As you had chosen to add Home emergency cover, this question includes any claims made on previous policies that included Home emergency."

In that letter, I found no reference to Wakam considering them to be accidental damage claims. Wakam only referred to home emergency claims. This is why I said in my provisional decision that Wakam *"initially said these were accidental damage claims, but later seemed to accept these were home emergency claims"*. Wakam's reasoning and justification for cancelling the policy related to them being home emergency claims, not accidental damage claims. I also note the policy documents we've been provided with said buildings and contents accidental damage cover was *"not included"*. This would also call into question whether Mr M and Mrs K *"could have been covered under this policy"*, which is what they were asked to confirm, if the previous claims were for accidental damage and they didn't have that cover with Wakam.

I'm aware Wakam has made some comments about Mr M and Mrs K. I was aware of all the information and evidence that had been provided as part of this complaint and considered it all, including where each of the screenshots originated. Regardless of Wakam's views about Mr M and Mrs K, this doesn't address the issue of the question it asked.

Wakam has also raised about what was asked on the price comparison website. For the screenshots Wakam has now said were used to *"fabricate"* a quotation journey, it previously told this Service it wasn't responsible for what was asked on the price comparison website. It said the claims history was always asked again in Wakam's own format when the user clicked through to its website. So, from what I can see Wakam has previously said it is what was asked and answered on its own website that was key. It was the question and guidance on Wakam's website on which I based my decision.

I remain of the view that it's fair for me to say Mr M and Mrs K didn't make a misrepresentation and that the actions Wakam took by voiding the policy and refusing to deal with the claim weren't fair or in line with CIDRA.

My final decision

For the reasons I've given above and in my provisional decision, my final decision is that this complaint is upheld. I require Wakam to:

- Reinstatement of the policy.
- Remove references to the policy voidance from internal and external databases.
- Continue to consider the claim in line with the policy terms and conditions.
- Pay Mr M and Mrs K a total of £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K and Mr M to accept or reject my decision before 25 September 2025.

Louise O'Sullivan
Ombudsman