

## **The complaint**

Mr R is unhappy with how First Central Underwriting Limited (First Central) handled his car insurance claim.

Mr R's mother represented him when he referred his complaint to this Service, but I'll refer to Mr R throughout because he is the complainant.

## **What happened**

Mr R took out a policy with First Central in July 2022.

In October 2022 First Central were notified that Mr R's car was involved in a car incident with a third party (TP) vehicle.

Mr R didn't contact First Central about the incident, so it wrote to him notifying him of the claim and requested his version of events. It said if he didn't respond it may settle the TP claim and this could affect the cost of future insurance and his No Claim Discount (NCD). First Central says because Mr R didn't respond it accepted the TP's claim and settled it on a without prejudice basis. It wrote to him confirming that, because he hadn't responded, it would settle the TP claim on the best possible terms.

In December 2024 Mr R set up a new policy with First Central. He told it he had two years NCD and didn't have any claims. But First Central says it believes he provided incorrect information because his NCD was older than two years so it wouldn't accept them - and it said he failed to disclose a claim. First Central wrote to Mr R saying, with these changes, it required an additional premium for the policy. It said if he didn't pay the premium in the next seven days the policy would be cancelled.

Mr R didn't pay the additional premium and disputed the claim alleged by the TP - so First Central cancelled his policy.

Mr R complained to First Central and said he wasn't driving the car at the time of the incident and it was stolen - he provided a court document to confirm this. He didn't agree it should hold him responsible for the claim.

First Central didn't uphold his complaint. It said when it contacted Mr R about the claim, he didn't make it aware he wasn't driving at the time of the incident, and it had a duty to settle the TP's claim as the insurer of the vehicle. Two claims were made for this incident one for property damage and one for vehicle damage. The claim for vehicle damage has been settled – the claim for damaged property remained open.

First Central accepted Mr R wasn't driving the car, but said it was unable to remove the claim recorded against him unless it recovered its claim costs. However it said it would now redirect the claim to the person who was driving the car at the time of the incident.

As Mr R didn't agree he referred his complaint to our Service. He said he didn't claim on the policy or notify First Central of the incident because the police told him to leave the matter

with them because they were investigating the incident. He also said he thought First Central was acting beyond its powers because the person who stole his vehicle was prosecuted by the police and sentenced by the court. So he didn't think First Central treated him fairly when it held him responsible for the incident because he had nothing to do with it.

Mr R said First Central had put him at risk of driving with no insurance because it only notified him the policy was cancelled the day after the insurance cover ceased.

Our Investigator didn't recommend that we uphold the complaint. She thought First Central's liability decision was reasonable based on the evidence available because it hadn't recovered its claim costs. She also thought it had cancelled the policy in line with the actions it can take under The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA).

Mr R didn't agree and provided a detailed response to the Investigator's opinion. But, in summary, he maintained that the claim shouldn't be recorded against him. He also said First Central didn't give him the opportunity to pay the additional premium by the deadline given in its notice of cancellation letter. And, it should have alerted him about the open claim at the time he took out the new policy because he didn't know anything about it.

Regarding the NCD Mr R said he had proven he had one year's NCD from 2021-2022 and a second year in 2023 for a different vehicle, so it was reasonable for him to state he had two years NCD.

As Mr R didn't agree with the Investigator, the 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've decided to not uphold it and I'll now explain why.

As this is an informal service, I'm not going to respond here to every point or comment on every piece of evidence Mr R and First Central has provided. So while Mr R has provided detailed submissions, I'll summarise what he's said and focus on the points I consider to be key.

How the claim is recorded

Our role is to look at whether First Central has carried out a fair investigation, reviewed all the evidence available and come to a reasonable decision. This means it's not for this Service to say who is at fault for causing an accident, as that is the responsibility of the courts.

I've read Mr R's policy terms and conditions. This allows First Central to takeover, defend or settle a claim. This means it had the ultimate and final say in how to settle a claim. However, First Central should exercise this right fairly and reasonably, taking into account all of the information provided by both parties about the claim. This policy term is included in most car insurance policies.

Mr R disputes he is at fault because he wasn't driving the car at the time of the incident. But First Central said it tried to contact Mr R about the incident and requested his version of events, but he didn't respond within the seven day deadline given or following its chaser - so it settled the TP claim.

First Central accepts Mr R wasn't driving the vehicle after it was presented with court documents showing this. But it says, until it recovers the claim costs, it won't remove the claim recorded against Mr R.

Mr R says it's unfair for the claim to be recorded against him because he has been a victim of car theft and the person driving has been prosecuted. When the claim was made in October 2022 First Central tried to contact Mr R on several occasions to get his version of events about the incident, but he didn't reply. First Central says this meant it had no evidence to dispute the claim. I'm satisfied First Central's efforts to contact Mr R were reasonable and, because he didn't reply, I don't find that it's unreasonable for it to settle the claim. And, as a claim was made against the policy which First Central paid, it's not unreasonable for it to record the claim against him.

Mr R says he was made aware of the incident by the police, and he said he didn't notify First Central about it because the police instructed him to leave the matter with them. And, as he didn't make a claim on the policy, he didn't see why he needed to contact them. He says the first he heard about the claim was when he took out the new policy in 2024 and First Central asked him to pay the additional premium due to the misrepresentations. But I've seen evidence of the emails it sent to his email address about the claim, and First Central's claim notes show that it tried to call him to discuss the incident – yet it had no reply from him.

So, I'm satisfied First Central fulfilled its duties by notifying him of the claim and it's something he should've been aware of based on its attempted communication with him. I acknowledge Mr R believed the police were dealing with the matter, but when First Central contacted him about the incident, he should have responded. So, in the circumstances I still don't find First Central treated Mr R unreasonably when it recorded the claim against him.

Ultimately, while I appreciate Mr R is unhappy with the decision, I'm satisfied First Central has considered all the evidence provided about this claim and it has treated Mr R fairly when it recorded the incident against him.

## Cancellation

First Central says it cancelled Mr R's policy because he didn't pay the additional premium it asked him to pay due to the misrepresentations made on the policy. It charged a higher premium because it says Mr R gave the incorrect information about his NCD and a claim on his policy. But he said he wasn't given a fair opportunity to pay the premium before it cancelled the policy.

The relevant law in this case is 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.

First Central thinks Mr R failed to take reasonable care not to make a misrepresentation when he didn't tell it about a claim on his policy and it said he answered the question about NCD incorrectly.

I've looked at the questions Mr R was asked when he took the policy out online in 2024. On the application he was asked the following question about claims:

"In the last five years, has the driver had or caused any accidents, claims or damage involving any motor vehicle?

This includes cars, motorbikes and/ or vans. Tell us about it even if the driver didn't claim and no matter who's fault it was.

Accidents, claims and damage in the last five years

You must declare any accidents, claims, losses or damage that occurred within the last five years, regardless of whether it involved your car, motorbike, van or any other motor vehicle, even where you were not at fault, were driving a different vehicle or the incident involved a named driver."

The question states that Mr R must declare any accidents that occurred within the last five years where he was the driver regardless of whether he was at fault. He answered 'No' to this question – but First Central said he answered this question incorrectly.

Mr R doesn't agree that he made a misrepresentation because he says he wasn't aware of the claim when he took out the policy. And he doesn't think it's fair for First Central to hold him responsible for the claim when he wasn't the driver – but a victim of car theft. He says he followed the instructions given by the police to leave the matter with them.

I've considered what a reasonable person would've done in the circumstances. I'm satisfied that Mr R was aware of the claim because the police contacted him about it around the time of the incident and he said on a call with First Central that his friend was driving. In his submission to our Service he also said that he didn't notify First Central about the incident and make a claim on the policy because he didn't want it to affect his future car insurance premiums. But I'm satisfied he knew about the third party's claim and needed to disclose it to First Central – so I'm persuaded that a reasonable person would've disclosed the claim.

So, I'm satisfied it was fair for First Central to say Mr R failed to take reasonable care when answering this question about any claims made in the last five years.

Mr R was also asked this question about NCD:

"How many years' no-claim discount does the driver have?

Most insurers will ask for proof of a policyholder's no-claim discount. You can get this from your current or previous insurer

Why do we ask about this?

No claims discount

You get a no claim discount for every continuous year you don't claim on your car insurance policy (on a policy in your name).

Most insurers will only accept your no claim discount:

- When you are the main policyholder for the insurance
- If it's earned on one car insurance policy at a time
- If it's earned on UK policies within the last two years..."

The price comparison website provided information about why it asked about the NCD and details of when most insurers will accept NCD's. What's key here is it specifically stated that most insurers will only accept the NCD if it's earned on UK policies within the last two years.

I'm satisfied that the information provided about the NCD was clear and accessible to Mr R.

Mr R provided evidence from two insurers about his NCD which he believes demonstrates two years NCD. The first is for one year's NCD between 2021 and 2022. First Central said as this was older than two years it can't be added to Mr R's policy. The second is dated November 2022 and only states that his NCD was confirmed. First Central said this wasn't sufficient proof, so Mr R provided an email dated 2023 confirming the policy end date, but it still said this wasn't enough.

I don't think it was unreasonable for First Central to say it's unable to accept this as it didn't consider the evidence Mr R provided was sufficient proof of two years NCD. The first document Mr R provided was more than two years old. The other one doesn't provide full details of the discount. So, I'm satisfied it was reasonable for First Central to say the proof of NCD Mr R provided wasn't acceptable and meant his two years NCD wouldn't apply to his policy. The online application said most insurers would only accept NCD if earned on a UK policy within the last two years – Mr R didn't provide the correct information about his NCD and I'm satisfied that First Central provided the relevant information on the application for him to be aware of the NCD requirements.

Overall, I find that it was fair for First Central to say Mr R failed to take reasonable care when providing information about claims made on the policy and his NCD.

First Central has provided its underwriting evidence which shows it would've charged him a higher premium had it known the true situation. So, I'm satisfied Mr R's misrepresentation was a qualifying one. First Central hasn't said how it classified Mr R's misrepresentation. But its actions suggest it treated it as careless so I don't need to make a further finding on this.

As First Central treated Mr R's misrepresentation as careless, I've looked at the remedies available to First Central in accordance with CIDRA.

In this situation CIDRA says an insurer can either cancel a policy or settle a claim proportionately. It doesn't give the insurer the right to automatically charge a higher premium. But I think it's fair and reasonable for an insurer to give a consumer the option to do this first. And it's considered good industry practice in such circumstances. So if the consumer decides to accept the additional premium we wouldn't interfere. However, if a consumer chooses to not pay the additional premium, the insurer should give them the option to cancel the policy before it does so.

Mr R missed a payment for his car insurance so First Central gave him until 20 February 2025 to pay the missed premium finance payment. He also didn't pay the additional premium due to his misrepresentations, so First Central changed the cancellation date to 13 February 2025, which is when it asked him to pay the additional premium. He thinks it deprived him of the opportunity to continue with the policy by cancelling it earlier than stated. But to do so he would have had to pay the additional premium, which I don't think he was willing to do.

That said, I've thought about whether First Central gave Mr R sufficient notice that it was going to cancel an insurance policy. Its good practice for an insurer to use two means of communication to give its customers notice of cancellation.

First Central initially wrote to Mr R with details of the additional premium with a seven day deadline which required payment of the additional premium by 29 January 2025, but he disputed the claim and provided documents which he said evidenced his NCD - he also requested a data subject access request (DSAR). First Central says it held off on the cancellation until the DSAR was completed and once this was done, it issued a further cancellation letter giving seven days notice again, which meant Mr R had until 13 February 2025 to pay the additional premium. It says Mr R was also provided with the notice of cancellation over the phone.

I'm satisfied First Central provided sufficient notice of the cancellation to Mr R because it used two methods of communication and the deadline and consequences of non-payment were clearly stated in the emails sent.

But during this time Mr R's policy was still active which meant his premium finance still needed to be paid to maintain the cover in place as it hadn't yet been cancelled. So, First Central also sent Mr R an email requesting this outstanding premium finance for his annual policy as it said it was unable to collect the payment from him. It said if the payment wasn't made by 20 February 2025 the policy would be cancelled. While I acknowledge that this may have caused confusion, it was Mr R's responsibility to maintain his insurance cover during the investigation and ensure his premium finance payments were up to date. First Central provided Mr R with notice of cancelling the policy for two separate reasons.

I'm satisfied that Mr R's policy was fairly cancelled on 13 February 2025 due to non-payment of the additional premium because of his misrepresentations and he was given sufficient notice of the cancellation. However, First Central hasn't recorded the cancellation on any of the databases. So, in effect, it's treated as cancelled by Mr R. I think that's fair.

Overall, I'm satisfied First Central acted fairly and reasonably when it cancelled Mr R's policy in accordance with CIDRA and I don't think First Central treated him unfairly when it settled his claim the way it did.

Mr R has raised further concerns about information he discovered in the DSAR – he believes it recorded false and misleading information about him which impacted the claim. He also said he wasn't properly notified about a default notice due to an outstanding balance. Because these concerns didn't form part of Mr R's original complaint I can't make a finding on these matters. Mr R would need to raise a new complaint with First Central for these points to be considered.

### **My final decision**

For the reasons set out above, I've decided to not uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 29 December 2025.

Colleen Cousins  
**Ombudsman**