

The complaint

Mrs H is unhappy that Liverpool Victoria Financial Services Limited have declined a claim she made on her income protection policy and cancelled it.

What happened

Mrs H claimed on her income protection policy following a diagnosis of breast cancer. LV declined the claim and cancelled the policy as they said Mrs H hadn't accurately answered questions about her medical history. They said, had she done so, they would have postponed the application and then declined to cover.

Mrs H complained to LV but they maintained their decision was fair. Unhappy, Mrs H complained to the Financial Ombudsman Service.

Our investigator looked into what happened, and considered the relevant legislation. She thought that LV had acted fairly when declining the claim. Mrs H didn't agree and asked an ombudsman to review the complaint. She highlighted that she had not had a lump on her breast and the cancer that was located was incidental. So, I need to make a 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.

I'm very sorry to read of the circumstances which led to Mrs H's claim. I have a lot of empathy with the circumstances she's described, particularly as she's described how difficult it has been continuing to work with a young family. I have a lot of empathy with what she's said about how this has impacted her.

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.

LV says Mrs H failed to take reasonable care when answering questions about her health during the application process. The application was made in May 2024. The relevant question said:

“Have you had any of these in the last 3 months, even if you haven't seen a doctor?”

You don't need to include things that you've already told us about

Options- Any changes of either breast including lumps, growths, hardening or nipple abnormalities, Bleeding from the bowel or a change in bowel habit, A cough lasting more than 3 weeks, A fit or seizure, A mole or skin blemish which has changed in appearance.”

Mrs H answered 'no' to that question. LV says that she ought to have answered 'yes'.

I think LV has reasonably concluded that Mrs H ought to have answered 'yes' in response. I'll explain why.

Mrs H's GP recorded information about Mrs H's concerns in June 2023 before referring her for further tests. It was during those tests that an incidental discovery of cancer in the right breast was made. The GP records say:

“Reason here today because noticed a lump in L breast. Noticed mostly when lies down, first felt in in April, seemed to have come and gone, but in past week has noticed it more and some slight aching in lateal side L breast...”

I've carefully thought about what Mrs H has said about there not being a lump, it being difficult to describe the symptom and that it was thought that it was linked to HRT. I've also carefully considered the medical evidence she's referred to in support of that. However, taking into account that she was asked about any changes I still think it would have been reasonable to disclose that she'd noticed something different. The list given in the question isn't exhaustive and provides some examples. And, as I've outlined above, the changes in the other breast were noted to be present from April.

LV has provided information which demonstrates that had LV been aware of the above information they'd have postponed, and ultimately, declined the application. That's because once the results of the investigations were known they wouldn't have offered cover. I appreciate that the diagnosis of cancer was in a different breast, but the important factor here is that Mrs H was referred for investigations following her discussion with her GP. That means I'm satisfied Mrs H's misrepresentation was a qualifying one, as it would have made a difference to whether LV would have offered cover.

LV has classified Mrs H's misrepresentation as careless. I don't think there is evidence that Mrs H deliberately or recklessly misled LV. And, to be clear, I'm not suggesting that Mrs H has been deceitful, fraudulent or has lied to LV. I know how much that suggestion has upset Mrs H and I want to reassure her that is not the conclusion I've reached. I think it's more likely Mrs H didn't appreciate the importance or significance of such changes in her breast to LV during the application process.

As I'm satisfied the misrepresentation was careless, I've looked at the actions LV can take in accordance with CIDRA. In such circumstances, where they wouldn't have offered cover, they are entitled to decline the claim, cancel the policy and refund the premiums. That's what LV has done. So, I'm satisfied they've acted in line with CIDRA. I therefore think what LV has done is fair and reasonable.

As I'm satisfied that LV has fairly declined the claim based on the above information I don't need to make a finding about whether the non-disclosure in relation to the hip pain has an impact on the claim decision. That's because I'm satisfied LV has adequately demonstrated they wouldn't have offered Mrs H a policy.

My final decision

I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 6 January 2026.

Anna Wilshaw
Ombudsman