

The complaint

Mr O is unhappy that Zurich Assurance Ltd have declined a claim he made on a life insurance policy.

What happened

Mr O and his late wife, Mrs O, held a life insurance policy. Mrs O sadly died, and Mr O claimed on the policy. The claim was declined as Zurich said that Mrs O hadn't accurately answered questions about her medical history during the application process and, had she done so, they wouldn't have offered her a policy.

Mr O complained to Zurich but they maintained their decision was fair. Unhappy, Mr O complained to the Financial Ombudsman Service.

Our investigator looked into what happened and didn't uphold the complaint. She thought that Zurich had acted fairly and in line with the relevant legislation when declining the claim. Mr O didn't agree and asked an ombudsman to review the complaint. He wanted a second opinion about the conclusions the investigator reached.

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 sorry to read of the circumstances which have led to Mr O making a claim. I have a lot of empathy for the circumstances he's described and would like to offer my condolences for his loss.

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.

Zurich thinks Mrs O failed to take reasonable care not to make a misrepresentation when she answered questions about her health when the policy was taken out in July 2023. During the application process Mrs O was asked for her height and weight. Her weight was recorded on the application form as 83kg. Zurich says that information wasn't correct.

I've looked at the records provided by Mrs O's GP. Her weight was recorded as 112kg in

March and May 2023 and her BMI was recorded as 42.2 in mid July 2023. I've considered what Mr O has said about Mrs O's weight fluctuating. But I think it's unlikely that it would have fluctuated to such an extent during such a short period of time. So, I think it's reasonable for Zurich to conclude that Mrs O's weight wasn't accurately disclosed.

Zurich has provided underwriting evidence which demonstrates that if Mrs O's weight had been correctly disclosed, they would have asked for more information from her GP which would have brought to light other information about her health. Once Zurich had been made aware of the additional information the evidence demonstrates she wouldn't have been offered this policy. That information is commercially sensitive and can't be shared with Mr O but I hope it reassures him to know that someone independent has reviewed it. Therefore, I'm satisfied that Mrs O's misrepresentation was a qualifying one.

Zurich has also said that Mrs O failed to declare a kidney problem and high blood pressure. However, I don't need to make a finding about whether Mrs O also misrepresented those issues during the application process as I don't think it's central to the outcome of the complaint. I say that because the evidence provided by Zurich demonstrates that had Mrs O's correct weight been disclosed, and the process that would have then been followed, means the policy wouldn't have been offered to her, regardless of the position in relation to the other conditions.

Zurich has treated Mrs O's misrepresentation as careless. I think that's fair as I don't think Mrs O sought to mislead Zurich. I think it's more likely she didn't appreciate the significance of ensuring her answers were correct and/or the importance of this information to Zurich.

As I agree the misrepresentation should be considered as 'careless' I've looked at the actions Zurich can take in accordance with CIDRA. In such circumstances Zurich are entitled to decline the claim, cancel the policy and refund the premiums. That is what they've agreed to do in the circumstances of this case.

In view of all of the above I think Zurich have acted fairly and reasonably/

My final decision

I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 10 February 2026.

Anna Wilshaw
Ombudsman