

## **The complaint**

Miss K complains about the way Liverpool Victoria Financial Services Limited (LV) handled a claim she made under her income protection insurance policy. She is also unhappy it has altered the terms of her income protection policy and life assurance policy

## **What happened**

The circumstances of this complaint will be well known to both parties and so I've summarised events.

Miss K purchased an income protection insurance policy and a decreasing life assurance policy both provided by LV. The income protection policy provided cover of £3,250 per month, and the decreasing life assurance policy provided £110,000 worth of cover. Both policies began in January 2023. In July 2024 Miss K contacted LV as she was expecting to be off work due to illness.

Following investigation into Miss K's claim, LV told Miss K it would be declining it, cancelling her policies and refunding her premiums. It said it thought Miss K had given it incorrect information about her weight when she purchased her policies, and had she provided it with the correct information, it wouldn't have offered her the policies. Miss K raised a complaint about this decision.

On 16 October 2024 LV issued Miss K with a final response to her complaint. It said it understood Miss K had now spoken to a member of its technical team and had accepted the reason her policies had been cancelled.

Miss K provided LV with medical information which she said showed the weight she had declared at the time of her application was correct. LV accepted this but said Miss K's policies would remain cancelled as she had been suffering from ongoing stomach issues which hadn't been declared to it.

Following further investigation LV wrote to Miss K in January 2025. In this letter it said:

- Due to Miss K's history of poor health it wouldn't have provided her policies on standard terms and instead would have applied a 50% loading.
- It would reinstate Miss K's policies with this loading applied.
- It would be reducing Miss K's life assurance cover to £22,455 and she would be charged the same premium she had been paying previously.
- It would be reducing Miss K's income protection cover to £2,152 per month and she would be charged the same premium she was paying previously.
- Her income protection claim had been accepted with the new monthly benefit of £2,152 from July 2024 until September 2024.

- If she wished to claim for benefit for beyond this period, she would need to provide further evidence of her inability to work.

On 22 January 2025 LV issued Miss K with a final response. It said it had cancelled her policy before full evidence had been considered and there were delays in decision making. It said it would pay Miss K £300 compensation as an apology. Miss K referred her complaint to this Service.

Our Investigator looked into things. He said the relevant law was the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). He said he thought LV had fairly applied CIDRA when it reduced the benefit Miss K was due under her income protection and life assurance policies. He also said he didn't think the compensation LV had paid was reasonable to acknowledge the distress and inconvenience caused to Miss K, and so it should pay her a further £250 compensation, bringing the total compensation due to £550.

LV said it thought the compensation it had awarded was reasonable, but it would agree to pay total compensation of £550. Miss K didn't agree with our Investigator's view. She provided a detailed response but in summary she said:

- She had answered all questions truthfully at the point she purchased her policy.
- LV had relied on historic medical information beyond the dates set out in the application form.
- LV took seven months before releasing any benefit, during which period she became unwell due to stress, missed medical appointments and lost a planned holiday.
- She thought additional compensation was warranted in the circumstances.

I issued a provisional decision about this complaint and I said:

*I want to acknowledge I've summarised Miss K's complaint in less detail than she's presented it. I've not commented on every point she has raised. Instead, I've focussed on what I consider to be the key points I need to think about. I mean no discourtesy by this, but it simply reflects the informal nature of this Service. I assure Miss K and LV I've read and considered everything that's been provided. I've addressed the key points separately.*

#### Misrepresentation

*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 that 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 under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.*

*LV believe Miss K failed to take reasonable care when she failed to tell it about her*

history of indigestion and cardiac investigations.

I've considered whether I think Miss K has made a misrepresentation and whether she has failed to take reasonable care when applying for her policies. I've looked at the questions Miss K was asked when she applied for her policy in December 2022 alongside the available medical records.

When Miss K applied for her policies she was asked the following questions:

**'In the last 5 years have you had any of these?**

*Crohn's, colitis, IBS, or anything else affecting your stomach, bowel or digestive system.*

**In the last 5 years have you had any of these?**

*Raised blood pressure, cholesterol or chest pain.*

**Have any of these applied to you in the last 3 years? You don't need to include things you've already told us about.**

*You don't need to tell us about:*

- *Antibiotics or one-off chest infections*
- *Infertility treatments*
- *Pregnancy and terminations*

*I've been advised to see a specialist or to have any tests, scans, investigations or counselling.'*

Miss K answered, 'no' to all of these questions. However, based on Miss K's medical history I think the answers to these questions should have been, 'yes'.

Miss K's consultant has written two letters, both dated 9 July 2024. One letter says Miss K has a several year history of intermittent right subcostal pains. The other letter says Miss K has a several month history of intermittent right subcostal pains. Both letters say episodes are associated with severe nausea and occasional vomiting.

On 6 November 2024 Miss K's consultant has written another letter to provide some clarity. He said Miss K developed severe right subcostal pain in June 2024 and was diagnosed with gallstones. He said thinking back, Miss K had similar symptoms over the years intermittently and this was put down to indigestion.

I can also see LV's claim notes say it spoke with Miss K in September 2024 and she told it she has always had some unspecified stomach pains. So, based on the evidence provided, I think Miss K had suffered from something affecting her stomach, bowel or digestive system. And, given this had been ongoing for a number of years, I think a reasonable consumer in these circumstances would have declared this when applying for these policies.

I can also see from Miss K's medical records that in 2020 she visited the hospital as she had collapsed and was experiencing chest pains alongside other symptoms. I can also see a letter dated 11 February 2021 from a consultant cardiologist following

*an echocardiogram. So, I think the medical evidence shows Miss K had experienced chest pains in the five years before purchasing her policy, and had seen a specialist for tests in the three years before purchasing her policy. I think a reasonable consumer in these circumstances would have declared this when applying for these policies.*

*As I think Miss K failed to take reasonable care not to make a misrepresentation, I've gone on to consider whether this is a qualifying misrepresentation.*

*LV has provided evidence to show had Miss K answered, 'yes' to the above questions it would have prompted a manual underwriting review in which it would have asked for further information from both Miss K and her GP. Following receipt of this information, it's underwriters would have reviewed Miss K's medical history and applied a 50% loading to her policies. I'm satisfied LV has been able to demonstrate this is what it would have done had Miss K declared her conditions accurately, and so I'm satisfied this is a qualifying misrepresentation.*

*LV has treated Miss K's misrepresentation as a careless one rather than deliberate or reckless. So, I've looked at the actions LV can take in accordance with CIDRA.*

*Having done so, I'm not persuaded LV has applied an appropriate remedy available to it under CIDRA and I'll explain why.*

*In regard to Miss K's income protection policy, LV provided underwriting evidence to show had she declared her medical conditions accurately, she would have been charged £93.16 per month for her income protection policy rather than the £68.94 per month she has paid. This means Miss K has paid 74% of the premium she should have paid for her policy. So, CIDRA entitles LV to pay 74% of her claim.*

*LV has now acknowledged its decision to reduce Miss K's benefit whilst keeping her premium the same was incorrect. This has meant Miss K received a monthly benefit of £2,152 when she should have received a monthly benefit of £2,405 per month. It has said it will pay Miss K the difference between the benefit she has received and the benefit she should have received, along with 8% per year simple interest. I think this is reasonable as this is in line with the remedy available to LV under CIDRA.*

*In regard to Miss K's life assurance policy, LV has reduced the policy benefit to £22,455 but again I don't think this is a remedy available to it under CIDRA. Under CIDRA, LV should have calculated the premium Miss K had paid for her policy against the premium she should have paid had she not made a misrepresentation. It can then look to settle any future claims proportionately based on this or give Miss K the opportunity to cancel her policy and have her premiums refunded.*

*LV has provided underwriting evidence to show had she declared her medical conditions accurately, she would have been charged £7.52 per month for her life assurance policy rather than the £5.35 she has paid. This means she has paid 71.14% of the premium she should have paid for her policy. So, under CIDRA LV should give Miss K the option to continue paying £5.35 per month for her policy, but it will only settle 71.14% of any future successful claims. It should also give her the option to instead cancel her policy and refund the premiums she had paid toward this.*

*LV has also said it would be willing to allow Miss K to pay it the additional premium she should have paid toward the policy, and pay £7.52 per month going forward in order for the policy to provide the level of cover it had originally. This falls outside of*

*CIDRA, but I think it's reasonable LV has offered Miss K the opportunity to do this if she wishes. I think LV should outline these three options to Miss K and allow her to decide how she wishes to proceed with the life assurance policy.*

### Claim handling

*LV has acknowledged it hasn't handled Miss K's claim as well as it should have done. It has said it cancelled Miss K's policy before reviewing all of the available evidence, and there were delays in its decision making. It has now agreed to pay Miss K a total of £550 compensation, and so I've considered whether this is reasonable to acknowledge the impact to Miss K.*

*I think any claim of this nature is going to come with a certain element of distress and inconvenience, even if everything goes smoothly. Miss K would have always needed to provide LV with medical evidence and evidence of her earnings in order to support her claim. However, I think the way LV handled her claim has caused Miss K additional distress and unnecessary inconvenience which could have otherwise been avoided.*

*LV's decision to decline Miss K's claim and cancel her policy was done so prematurely and this has caused Miss K distress. And whilst I think it was entitled to consider whether there had been a misrepresentation, I think the time it took to make this decision was longer than I would expect. Particularly given it was aware Miss K was unwell and not working at that time. However, I've also taken into consideration that the reason LV had to carry out further investigation was due to Miss K's misrepresentation at the point she purchased the policy and so I can't blame it for needing to investigate this.*

*Taking everything into consideration I think the total of £550 compensation suggested by our investigator is reasonable to acknowledge the distress and inconvenience caused to Miss K. I think compensation of this amount is reasonable in circumstances where a business's errors have caused considerable distress and significant inconvenience which I think is the case here. So, I intend to require LV to pay Miss K a total of £550 compensation.'*

LV didn't provide me with any additional evidence or comments to think about. Miss K provided a detailed response but in summary she said:

- She maintains that she took reasonable care in disclosing all relevant information at the time of application. The stomach and subcostal pains were clinical symptoms associated with menstruation and recognised by medical professionals as normal. And the cardiac episode was an isolated event arising from extreme work-related stress and her consultant confirmed there were no cardiac issues.
- The questions asked at the time of application lacked clarity and were vague.
- She would like her initial levels of cover reinstated and to be given the option to make up the premium difference rather than the benefits being reduced.
- The £550 compensation doesn't adequately reflect the prolonged and significant impact on her health and well-being due to LV's failures.

### **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 reached the same outcome to the one I did previously for much the same reasons as before.

I acknowledge Miss K has said the stomach pains she suffered from were related to menstruation. However, the letters Miss K's consultant wrote in July 2024 say that Miss K's history of pain was associated with severe nausea and occasional vomiting. And the letter from November 2024 says Miss K had similar symptoms over the years and this was put down to indigestion. This would suggest at the time of applying for her policy, Miss K had experienced stomach and intercostal pains which were thought to be indigestion. And given the question asked whether in the five years previous Miss K had experienced anything affecting her stomach, bowel or digestive system, I think a reasonable consumer in these circumstances would have declared this.

I acknowledge Miss K has said her cardiac episode was related to severe stress and her consultant confirmed there were no cardiac issues. However, Miss K was asked whether she had experienced chest pains in the last five years. Additionally, she was asked whether in the past three years she had been advised to see a specialist or have any tests, scans or investigations. So, regardless of whether Miss K's consultant confirmed she didn't have a cardiac issue, the medical evidence shows she had experienced chest pains and seen a specialist for tests. So, I think a reasonable consumer in these circumstances would have declared this to LV.

Miss K has said the questions she was asked lacked clarity and were vague but having looked at the questions Miss K was asked I'm not persuaded this is the case. I don't think a reasonable consumer when asked these questions would think they wouldn't need to declare the stomach issues or cardiac issues Miss K had experienced prior to application.

Miss K has said she would like the initial levels of cover for her income protection policy and her life assurance policy to be reinstated, and her given the option to pay the premium difference due if she wishes.

I should make it clear that this isn't something CIDRA requires LV to do and so it is at LV's discretion whether it wishes to give Miss K the option to do this. And this isn't something it has offered Miss K in relation to her income protection policy.

In relation to Miss K's income protection policy, CIDRA entitles LV to settle Miss K's claim proportionately based on the premium she has paid compared to the premium she should have paid. As it has provided underwriting evidence to show Miss K has paid 74% of the premium she should have done, it is entitled to pay 74% of her income protection claim. So, this is what I require it to do.

In relation to Miss K's life assurance policy, LV has said it is willing to allow Miss K to pay the additional premium she should have done if not for the misrepresentation and allow the policy to continue with the level of cover Miss K had originally. If this is something Miss K wishes to agree to then she would need to discuss this with LV.

Miss K has said she doesn't think the £550 compensation is sufficient to acknowledge the distress and inconvenience she has been caused. She has said due to the way LV handled her claim she developed shingles and a lifelong chronic immune system triggered by extreme stress.

I naturally empathise with Miss K given what she has been through, and the medical conditions she has developed. And I've no doubt the way LV has handled her claim has

caused her distress and unnecessary inconvenience. However, I've not seen medical evidence which shows Miss K developed these conditions due to the way LV handled her claim or the errors it made. And so, it wouldn't be reasonable for me to conclude LV are primarily responsible for Miss K's ill health.

I acknowledge Miss K has been caused additional distress and unnecessary inconvenience due to the way LV handled her claim. The initial decision to cancel her policies and the length of time it took to investigate Miss K's claim, at a time when she was unable to work, has caused her considerable distress. When deciding reasonable compensation, I've also taken into account that LV is entitled to carry out appropriate enquiries to ensure Miss K has a valid policy. Taking all of the circumstances into consideration, I think £550 compensation is reasonable to acknowledge the impact the errors I hold LV responsible for has had on Miss K.

### **My final decision**

For the reasons I've outlined above I uphold Miss K's complaint about Liverpool Victoria Financial Services Limited. I require it to:

- Pay Miss K the difference between the £2,405 monthly benefit she should have received and the £2,152 monthly benefit she has received under her income protection claim.
- \*Pay 8% per year simple interest on the additional settlement due calculated from the date the benefit was paid to the date the additional settlement is paid.
- Give Miss K the option to continue her life assurance policy and receive a 71.14% proportionate settlement on any future successful claim, or cancel her policy and receive a refund of her premiums, or allow her to pay the additional premium she owes, and the additional premium amount going forward to return the policy to the level of cover Miss K had originally.
- Pay Miss K a total of £550 compensation. It can deduct any compensation it has already paid as part of this complaint from this amount.

\*If Liverpool Victoria Financial Services Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss K how much it's taken off. It should also give Miss K a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 31 December 2025.

Andrew Clarke  
**Ombudsman**