DRN-6012884

The complaint

Mr L complains that AXA Insurance UK Plc trading as Moja ('AXA') repudiated his claim and avoided his motor insurance policy following a claim.

What happened

A motor insurance policy was taken out on behalf of Mr L on 11 January 2025. AXA were the underwriters of the policy. Mr L was involved in an accident in May 2025 and tried to make a claim on his insurance policy. During claim validation checks, it came to light that Mr L hadn't made AXA aware of all motoring convictions.

AXA considered this to be a careless qualifying misrepresentation, which entitled them to repudiate the claim, refund the premium paid and avoid the policy back to inception.

Mr L made a complaint, AXA didn't uphold it and he referred the complaint to our Service for an independent review. Our Investigator considered the complaint and recommended that it not be upheld. As the dispute remains unresolved, it's been referred to me for a final 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.

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. 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 must show it would have offered the policy on different terms, or not at all, 'but for' the misrepresentation.

CIDRA sets out a few 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.

Our service has a well-established approach to this type of complaint that I'll be following. More details can be followed here: https://www.financial-ombudsman.org.uk/consumers/complaints-can-help/insurance/misrepresentation-non-disclosure

The misrepresentation

AXA says Mr L failed to take reasonable care not to make a misrepresentation when failing to make them aware of both his motoring convictions at policy inception. They say they were made aware of a SP30 conviction, but not a CD10 conviction.

Mr L has said his mother arranged the setting up of this policy on his behalf, due to his work commitments. For the purposes of this decision, I've considered that Mr L's mother was acting with delegated authority to do this on his behalf. Therefore, any reference to Mr L can be interpreted as referring to the actions of his mother.

I've considered the relevant question asked:

I'm satisfied that a clear question was asked and information was not given to AXA about one of the motoring convictions.

As I've said above, the relevant test is what would a reasonable person do in the same set of circumstances. AXA clearly asked for information about driving convictions, endorsements penalties, bans or disqualifications in the previous five years. I've then considered if any mitigation fairly applies. Mr L has said [bold added for Ombudsman's emphasis]:

> *"The policy was set up online in January by my mum, who handled everything on my behalf while I was* [redacted by Ombudsman]. *She used my details and card information to complete the process, declaring the SP3O she knew about but not the CD1O — **simply because she didn't' know it existed**. It was an honest and genuine mistake."*
>
> *"She was **unaware of the CD10**, and I believed **she had everything she needed to answer accurately**."*

Later, Mr L has also said:

> *"At the time, I had no reason to doubt that my mother had answered everything correctly, so **I did not think it was necessary to go back over her answers in detail**. That is very different from knowingly ignoring an obvious error."*

Mr L's mother completing the application on his behalf doesn't absolve Mr L of ultimate responsibility to not make a misrepresentation. And if Mr L wasn't personally completing the application, arguably this presented more risk of something not being disclosed to AXA, and there rested with him a responsibility to ensure his mother had all relevant information to allow her to accurately provide AXA with the information they wanted to know. He failed to do this. Mr L also had an opportunity to verify correct information had been provided after the policy had been set up. Should any uncertainty have arisen, Mr L had the option of reviewing the information entered on his behalf and contacted AXA within 14 days of the policy being set up. AXA have said:

> *"The email address and postal address registered to the policy are for the policy holder and not his Mum – when he received our welcome letter and useful*

information, he needed to check over the cover to ensure it all met his needs and that his information was correct – there is links to the online account in our welcome email where all the information and documents are stored. We prompt the customer to check this for a reason."

Had Mr L reviewed the information AXA says was sent, the statement of fact document sets out clearly that one conviction was disclosed – not two. Mr L has disputed receiving these documents, but no evidence has been provided that he (or anyone on his behalf) followed up with AXA in the time period between policy inception and the accident to query this matter (in a scenario where Mr L didn't receive any documents after the policy was taken out).

Overall, I cannot fairly conclude a reasonable person wouldn't know to take the steps I've set out above. So it follows that I think Mr L *did* fail to take reasonable care to not make a misrepresentation. Ultimately, Mr L had a reasonable level of responsibility to ensure that if his mother was arranging this policy on his behalf, she was fully informed of all relevant information. Mr L also had the option of verifying the information given to AXA before the application was fully submitted.

Was the misrepresentation a qualifying one?

AXA have provided evidence that had they been made aware of both convictions, they'd not have offered Mr L cover. Because of commercial sensitivity, our Service cannot share the relevant underwriting information. But I can assure Mr L that I have very carefully reviewed the evidence – particularly given the impact here, and I'm satisfied AXA have fairly shown the evidence that supports the action they've taken as being fair.

This means I'm satisfied the misrepresentation was a qualifying one.

How was the misrepresentation categorised by AXA?

Mr L has said this was an:

"Honest, family-assisted mistake – not "careless"

The misrepresentation was an honest, family-assisted mistake – not "careless" in the CIDRA sense. My mother applied on my behalf, declared the SP30 she knew about, did not know about the CD10, and I reasonably believed she knew everything relevant. I disclosed all six points immediately once AXA asked."

But, where a misrepresentation has occurred, CIDRA only allows for categorisation as careless, deliberate or reckless. AXA have said they've deemed Mr L's misrepresentation to be 'careless'. In the specific circumstances of this complaint, I find this was fair and reasonable - as it is more favourable for Mr L than if AXA had deemed it to be deliberate or reckless.

The actions taken by AXA

Under the relevant legislation and because a careless qualifying misrepresentation has occurred, AXA can fairly avoid the insurance policy back to inception, refund premiums paid and decline this claim.

I'm satisfied AXA was entitled to avoid Mr L's policy in accordance with CIDRA. And, as this means that – in effect – his policy never existed, AXA does not have to deal with the claim.

As CIDRA reflects our long-established approach to misrepresentation cases, I think allowing AXA to rely on it to avoid Mr L's policy produces the fair and reasonable outcome in this complaint and I don't seek to interfere with their actions.

Other points raised

For completeness, I've addressed the main other points raised by Mr L.

- It's not the role of our Service to tell insurers what checks they ought to carry out when agreeing to underwrite insurance business. For balance, if insurers were to carry out the validation checks Mr L has suggested when every policy was incepted, it's very likely overall costs to consumers would rise.
- What any other insurer would've done is irrelevant to my decision. Each insurer sets their own risk appetite and it's not the role of our Service to interfere with that. I'm satisfied AXA have treated Mr L fairly and CIDRA allows them to take the actions they've taken here.
- Whilst I'm very sorry to hear of the impact of this policy avoidance and claim decline – emotionally, physically and financially on Mr L (and his mother), as I've not found that AXA have acted unfairly, I won't be making any findings in relation to compensation for these reasons.

My decision will no doubt be extremely disappointing for Mr L, but it ends our Service's involvement in trying to informally resolve this dispute between him and AXA.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 14 January 2026.

Daniel O'Shea
Ombudsman