

## **The complaint**

Mr W has complained that Advantage Insurance Company Limited avoided (treated as it never existed) his van insurance policy and declined his claim because of this.

Any reference to Advantage includes its agents.

## **What happened**

Mr W renewed his van insurance policy with Advantage on 27 July 2024. When he did so he was sent renewal documents to check. The Statement of Fact included with these showed Mr W had not disclosed any driving related convictions, endorsements or fixed penalties, disqualifications or bans he'd had in the past five years.

Mr W's van was stolen in November 2024 and he made a claim under his policy. Advantage checked his driving licence and discovered he had two fixed penalties. An SP50 with an offence date of 29 June 2024 and an SP10 with an offence date of 22 January 2023.

Advantage said that Mr W should have disclosed these offences when he renewed his policy in July 2024 and that, if he had, it wouldn't have provided the policy. So, it avoided the policy and provided him with a full refund of premium. And it declined his claim. Mr W's van was later recovered and went to Advantage's storage agent. They contacted Mr W about returning the van to him, but he didn't respond to their communications. So, they sold the van for £125 and put this towards their costs. Advantage also contacted Mr W and asked him to reimburse its costs in handling his claim (£748).

Mr W complained to Advantage about its decision to avoid his policy. But Advantage wouldn't alter its position. So Mr W asked us to consider his complaint. One of our investigators did this. She didn't think it should be upheld. This was because she was satisfied Advantage was entitled to avoid Mr W's policy and decline his claim.

Mr W said he didn't agree with the investigator's view, so his complaint was referred to me for a decision.

I contacted Mr W to find out when he was first notified that he'd been caught speeding and when he had been advised he'd received the SP50 fixed penalty. He said he was first notified of the speeding offence by a letter dated 26 July 2024. And he provided a copy of this letter, which he said he received around 5 August 2024. He didn't say when he actually received the notice saying he'd received the SP50, but it was obviously sometime after 5 August 2024.

## **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.

CIDRA also states that a failure by the consumer to comply with the insurer's request to confirm or amend particulars previously given is capable of being a misrepresentation.

And if a consumer fails to do either of these things, 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.

Advantage thinks Mr W failed to take reasonable care not to make a misrepresentation when he renewed his policy and failed to correct the Statement of Fact sent to him which showed he hadn't had any fixed penalties in the previous five years. It said Mr W failed to tell it about both his SP10 and his SP50.

I do not consider Mr W failed to take reasonable care not to make a misrepresentation in accordance with his duty under CIDRA with regards to his SP50, because he did not receive this fixed penalty until after the renewal date. And he didn't even receive the notice of the offence until after his policy had renewed. Advantage has mentioned a policy term required Mr W to let it know about this fixed penalty when he was told about it. But, while this may be the case, his failure to do so did not give it any rights under CIDRA. So, the SP50 should not have been a consideration for Advantage when it was deciding what action to take after it had checked his licence.

However, it is clear Mr W did know about his SP10 at renewal in 2024 and I agree with Advantage that his failure to let it know about this was a failure on his part to comply with his duty to take reasonable care under CIDRA. It was not for Advantage to carry out some sort of check on Mr W's licence; it was for Mr W to check his policy renewal documents and then let Advantage know this fixed penalty was missing.

I've checked the underwriting information provided by Advantage. And, although I can't share this with Mr W, I'm satisfied that if he'd let it know about his SP10 it would not have provided the policy to him at renewal in 2024. This is because when combined with other factors, it meant the risk Mr W presented was unacceptable to Advantage. This means Mr W's misrepresentation was a qualifying one.

I also agree with Advantage's decision to class Mr W's misrepresentation as careless. I say this because it clearly happened because Mr W didn't check the renewal documents properly. And I consider this to be a careless act, as opposed to a reckless or deliberate one. And this meant Advantage needed to return the full policy premium to him, which I understand it did. It did then later try to recover what it had cost it to handle his claim, which it may have been entitled to deduct from the refund of premium due anyway. But it has now told me it does not intend to pursue Mr W for this money.

Because Advantage wouldn't have offered Mr W a policy even if he'd just disclosed the SP10 fixed penalty, this means it was entitled to avoid the one he took out in July 2024, i.e. the one he renewed on 27 July 2024. And because it was avoided, Advantage did not have to deal with Mr W's claim, because in essence, there was no policy to claim against. It

should of course have returned Mr W's van to him, but its salvage agent did try to arrange this without success, so I do not think Advantage did anything wrong in this regard.

Advantage was wrong to take into account Mr W's SP50 when it avoided his policy, but I do not consider this caused him any additional distress or inconvenience, because it would have avoided his policy anyway, even if it had discounted this as it should have done.

I've also noted more recently Mr W has queried Advantage's decision to reduce his no claim discount because of his claim. But he did not raise this as part of his original complaint, so I am unable to consider it here.

In summary, I am satisfied that Advantage was entitled to avoid Mr W's policy and decline his claim. Therefore it is not appropriate for me to uphold his complaint.

### **My final decision**

For the reasons set out above, I've decided not to uphold Mr W's complaint about Advantage Insurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 11 January 2026.

Robert Short  
**Ombudsman**