

The complaint

Mr J and Miss J complain about First Central Underwriting Limited trading as Skyfire's (First Central) handling of a claim under their motor insurance policy.

The complaint has been brought by both Mr J and Miss J. Miss J is a named driver under the policy. But for ease, I'll refer to Mr J throughout my decision as he is the policyholder.

What happened

The circumstances of this case are known to both parties, but in summary Mr J has a motor insurance policy underwritten by First Central. In October 2023, Mr J was involved in a motor accident and made a claim under his policy. First Central didn't accept the claim as it determined the car had been used for commuting, which wasn't something covered under the policy. First Central explained this meant it wouldn't cover Mr J's losses under the policy and that the third party would likely look to recover its losses from Mr J directly. First Central later agreed to cover the uninsured losses of the third party under the Road Traffic Act but informed Mr J that it would then look to recover the costs from him.

Mr J later received correspondence informing him that the third party was looking to commence court proceedings. Unhappy with this, Mr J complained as he understood First Central had agreed to cover these costs on his behalf and then recover them from him directly. First Central upheld the complaint as it agreed it caused confusion, distress and inconvenience. So, it paid Mr J £250 compensation. Unhappy with its response, Mr J referred his complaint to this Service.

Our Investigator upheld the complaint. They concluded that First Central had unfairly declined the claim as they said Mr J made a careless qualifying misrepresentation, which under the relevant laws required First Central to proportionately settle Mr J's claim. They recommended First Central proportionately settle Mr J's claim, reimburse Mr J any funds beyond the proportion he is responsible for, pay 8% simple interest on any funds to be returned to Mr J, and increase its compensation offer to £750 to reflect its handling of the claim.

First Central didn't agree and asked for an Ombudsman to make a final decision. It reiterated that Mr J didn't make a misrepresentation but made a decision about the level of cover he wanted when the policy was purchased. And it was fair for it to decline the claim as it fell outside the scope of cover due to the selected level of cover.

So, the case has been passed to me to decide.

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 know I've summarised the circumstances of this case in less detail than presented. But I want to assure both parties that I've carefully considered all the information provided. I may not respond to every point or piece of evidence. But I've focused on the issues I consider to be key to the outcome of the case. This isn't meant as a discourtesy but reflects the informal nature of this Service – and the rules this Service are expected to adhere to enable me to do this.

Having reviewed all available evidence, I am upholding this complaint. I'll explain why.

First Central declined Mr J's claim as it concluded the incident took place while commuting – which isn't insured under the policy. It therefore argues that the claim isn't covered due to its limitations of use. However, I'm satisfied that the Consumer Insurance (Disclosures and Representations) Act 2012 (CIDRA) is relevant to the circumstances of this case. These laws come into play when a consumer fails to take reasonable care and gives incorrect information when buying a policy.

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.

I have therefore carefully considered what Mr J was asked at the point of sale, the answer he gave, and whether I think Mr J took reasonable care.

First Central has provided a copy of the questions that were presented to Mr J when obtaining cover through a comparison site. In particular, Mr J was asked –

“What is the car used for?”

- *Social, Domestic and Pleasure*
- *Social, Domestic and Pleasure incl Commuting*
- *Personal Business use by policyholder*
- *Personal Business use by spouse / partner - common law / partner - civil*
- *Business use by any named driver*
- *Commercial travelling”*

In response to this question, Mr J answered Social, Domestic and Pleasure (SD&P). Upon notification of the claim however, First Central discovered that the claim occurred while the car was being used for commuting. So, on balance, I'm satisfied Mr J incorrectly answered this question and should have selected SD&P including Commuting, given his intention was always to use the vehicle for commuting.

I'm satisfied the question is clear, and specific. And I'm satisfied that a reasonable consumer in similar circumstances would have answered the question differently. It follows that I think Mr J made a misrepresentation as he made a mistake when applying for this policy – and so failed to take reasonable care.

First Central has said that it doesn't consider this to be a misrepresentation and provided this Service with evidence showing Mr J has a second policy with it for another car. Prior to its purchase, it says Mr J obtained several quotes with commuting included, and without. Mr J ultimately purchased cover for his second car on the same day as his purchase of this policy claimed under and decided to include cover for commuting on his other car. This suggests Mr J understood the difference between cover with and without commuting, because he chose commuting cover for one car but not the other.

I've carefully taken this evidence into consideration, however I'm not persuaded this demonstrates Mr J made the decision to opt for a policy that doesn't include commuting. I say this because I'm not persuaded that the evidence shows Mr J obtained "several" quotes but arranged two. The initial appears to have been based on the same information he provided in his previous year's cover, and the subsequent, which included commuting cover, also included his current address. So, this suggests to me that Mr J was simply updating his renewal to reflect his updated circumstances before renewing. And then when taking this policy out, made an error when answering First Central's question about the use of the car.

First Central has provided commentary from its underwriters that confirmed had Mr J answered this question correctly, he would have paid an additional premium of approximately 1% of the total premium he had paid for the year. This means I'm satisfied the misrepresentation was qualifying as it altered the terms of the policy First Central was able to offer.

As First Central doesn't agree CIDRA applies to the circumstances of Mr J's complaint, it hasn't provided its position on what it considers the categorisation of the misrepresentation to be. But, as First Central continued with the policy upon becoming aware of the actual usage of the policy, and I haven't seen anything to suggest Mr J intended to mislead when applying for the policy, I'm satisfied the misrepresentation is careless, rather than deliberate or reckless.

As I'm satisfied Mr J's misrepresentation should be treated as careless, I've looked at the actions First Central can take in accordance with CIDRA – which states in the event of a claim, it should settle the claim proportionately. First Central hasn't done this and instead declined Mr J's claim. So, it follows that I don't consider First Central's response to the claim to be fair and reasonable in the circumstances of the case. It should now settle the claim proportionately.

Mr J's policy premium for the year was £403.70. First Central has said Mr J should have paid approximately 1% more had there been no misrepresentation which I calculate to be a total of approximately £407.74. So, Mr J paid approximately 99.1% of the premium he should have otherwise paid. First Central should therefore pay 99.1% of the total claim costs.

Had First Central looked to settle the claim proportionately as required under CIDRA, I'm satisfied Mr J wouldn't have experienced the subsequent complaint issues raised here – including the poor communication surrounding the county court summons, and incorrect advice when originally notifying First Central of the claim and being informed the third-party costs would be covered. In addition to this, both Mr J and Miss J have experienced significant worry and distress having had their claim declined in its entirety.

First Central has awarded Mr J £250 in response to his complaint. However, taking into account the overall experience, the impact of the unfairly declined claim, and customer service issues, I don't find this amount to be fair or proportionate. As such, I agree with the Investigator's recommendation that this should be increased to £750 in total. This amount is consistent with our award bands where a firm's actions have caused considerable distress,

upset and worry which has lasted many weeks or months. Given the impact of First Central's actions on both Mr J and Miss J, I find £750 to be more proportionate in the circumstances.

My final decision

My final decision is that I uphold this complaint and I direct First Central Underwriting Limited to:

- Proportionately settle Mr J's claim based on the 99.1% of the premium he paid. First Central should also confirm whether Mr J incurred any insured losses to his car and cover these proportionately.
- If Mr J has paid beyond the 0.9% he is responsible for under the repayment arrangement he had with First Central, it should refund the difference, and pay 8% simple interest* on the difference from the date of each installment to the date of settlement.
- Pay Mr J £750 in recognition of the distress and inconvenience caused.

*If First Central Underwriting Limited trading as Skyfire thinks that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr J how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J and Miss J to accept or reject my decision before 31 March 2026.

Oliver Collins
Ombudsman