

## **The complaint**

Mr and Mrs W are unhappy that Zurich Insurance Company Ltd proportionately settled a claim they made on their travel insurance policy.

## **What happened**

Mr and Mrs W were on holiday when Mr W became very unwell with symptoms related to his pre-existing medical condition, atrial fibrillation.

Zurich accepted the claim but only agreed to cover a proportion of the costs. They said Mr W hadn't accurately declared his medical history when taking out the policy and, had he done so, they'd have charged more for the policy. Mr and Mrs W complained to Zurich, but they maintained their decision was fair. Unhappy, Mr and Mrs W complained to the Financial Ombudsman Service.

Our investigator looked into what happened and partially upheld the complaint. He thought it was fair for Zurich to proportionately settle the claim but he thought they should pay £150 compensation as there were repeated references to Mr W having had a pacemaker fitted, which wasn't correct.

Zurich accepted the investigator's recommendation. Mr and Mrs W didn't agree and asked an ombudsman to review the complaint. They didn't think it was made clear that no previous medical conditions were covered and said that Zurich took insufficient care during the sales process. So, the complaint was referred to me to make a 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.

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 says Mr and Mrs W failed to take reasonable care when answering questions about Mr W's medical history. It's not disputed that Mr W did not have a pacemaker fitted – his GP has confirmed that was an error in the medical records. So, the key issue for me to

determine is whether Mr W accurately declared the treatment he had on his heart.

I appreciate that Mr and Mrs W feel there was a continuation of cover but I'm not persuaded that's the case. Zurich can fairly rely on what information they were provided with during the sales call in 2024 as that is when the relevant medical screening took place. During the call Mrs W was asked questions about Mr W's health, including whether he had any medical conditions. She said he had arthritis but made no mention of any heart condition. Mr W's medical records confirm he'd been diagnosed with heart failure and atrial fibrillation. I'm satisfied the questions she was asked were clear and that it would have been reasonable for Mrs W to disclose Mr W's heart condition in relation to the questions asked.

I don't agree that the sales process was insufficient in the way Mr and Mrs W have suggested. I think information about the policy was presented sufficiently clearly. And, in any event, Mr and Mrs W were also sent a copy of information about the policy (including information about what medical conditions had been declared). So, Mr and Mrs W also had the opportunity to correct this if it wasn't accurate.

Zurich have provided underwriting evidence that if this information had been disclosed they'd have provided a policy, but at an additional cost. This means I'm satisfied that Mr and Mrs W's misrepresentation was a qualifying one. Zurich have treated the misrepresentation as careless. I think that's fair as there's no evidence Mr and Mrs W sought to deliberately mislead Zurich. I think it's more likely it was an oversight on their part.

As I'm satisfied Mr and Mrs W's misrepresentation should be treated as careless I've looked at the actions General Insurance can take in accordance with CIDRA. In such circumstances they are entitled to proportionately settle the claim. That's what they've agreed to do here. I'm satisfied that Zurich have provided sufficient evidence that the error in relation to the pacemaker wouldn't have impacted the premium charged and that the claim has been fairly settled on the basis that Mr and Mrs W paid 66% of the premium they ought to have paid. Therefore, I'm satisfied Zurich has acted in line with the relevant remedy set out in CIDRA.

Zurich accepts that they didn't take the opportunity to correct the misunderstanding in relation to the pacemaker. I agree there were opportunities to do this and that it would have been frustrating for Mr and Mrs W to see that this was referred to on a number of occasions. So, I accept it caused them distress and inconvenience because they'd provided evidence this wasn't correct. I think a total of £150 compensation fairly reflects the impact of this poor service on Mr and Mrs W. And, in reaching that conclusion, I bear in mind that ultimately the proportionate settlement of the claim was fair.

### **Putting things right**

Zurich needs to put things right by paying Mr and Mrs W a total of £150 compensation for the distress and inconvenience caused by poor customer service if it hasn't done so already.

### **My final decision**

I'm partly upholding Mr and Mrs W's complaint and direct Zurich Insurance Company Ltd to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 26 March 2026.

Anna Wilshaw  
**Ombudsman**