

## **complaint**

Mr U complains that Aviva Insurance Limited cancelled his motor insurance policy from the start (voided it) without telling him. He wants it to rectify his situation or refund his premium.

## **background**

Aviva said it voided Mr U's policy because it thought he had misrepresented the owner and keeper of his sister, Miss R's, car in order to get cheaper insurance. It retained the premium and sent a letter of voidance rather than a notification of cancellation.

Mr U said he'd notified DVLA about the change of keeper but it hadn't processed this change. He said Aviva hadn't told them about the voidance and Miss R was stopped by the police for driving whilst uninsured. He said the car was impounded and Miss R fined.

Our investigator didn't recommend that the complaint should be upheld. She thought Mr U had misrepresented the car's ownership. She thought that when he took out insurance, the car's owner was Miss R. So she thought Aviva was right to void the policy and retain the premium.

Mr U replied that he and his sister had been truthful when applying for the insurance. He didn't think he had made a deliberate and reckless misrepresentation. He thought Aviva should have looked to resolve the problem before voiding the policy. He thought it was unjust to void the policy due to DVLA's delay in processing the logbook. He estimated that the voidance had cost his family about £8,100 and caused them undue stress.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I can appreciate that Mr U is extremely upset by Aviva's decision. I can see that this has had serious financial consequences for him and his family. Mr U has asked to be in direct contact with me when I review his complaint. But I don't think this is necessary as I have access to all the information he has provided and his detailed response to the investigator's view.

Aviva said it had voided the policy because of deliberate misrepresentation.

Where a complaint arises from misrepresentation of information important to an insurer, we look to see that it asked a clear question when the policy was taken out. We check that the information given would affect whether a policy was offered. And we check whether the informant has acted carelessly or deliberately in making the misrepresentation.

When Mr U applied for cover on a comparison site, he was asked who was the car's registered owner and keeper. Mr U said that this was himself, and his sister was the named driver. So I think Aviva asked a clear question about the car's ownership. Mr U said he'd answered it truthfully. But I don't agree and I'll now explain why.

Mr U said the car was bought at auction. His sister collected it and signed the V5 registration document. He said that he was the car's true owner and he'd sent the changed V5 to DVLA but it had lost it and this delayed the change being recorded.

But I think this account isn't supported by the evidence I've seen and the telephone recordings of Mr U's calls with Aviva that I've listened to. Miss R had a car accident and Aviva asked for the V5. This wasn't produced and Mr U explained that it had been sent to DVLA but it lost it. This was two months after Mr U said he'd bought the car. But I think he only sent off the V5 to be changed after this call.

So I think Miss R's name was on the V5 as the car's owner when insurance was bought and two months later when she had an accident.

Aviva asked Mr U further questions and I think it found that Miss R had paid for the car and the insurance. Mr U told Aviva that the car was his sister's but they'd taken out the insurance in his name to get cheaper cover. Aviva has provided evidence showing that the first quotes sought were in Miss R's name only. Mr U also said that he used the car less than his sister. In his calls with Aviva, Mr U had to ask his sister for information about the car's price and condition.

Mr U has provided screenshots of recent quotes for cover in his sister's name that he says show that she could get cheaper cover than they had from Aviva in his name. But I haven't seen what was input to gain these quotes. So I have to rely on the quotes that Aviva has shown that were obtained at the time Mr U took out the policy in his name. These show that cover in Miss R's name was much more expensive than with Mr U as the car's owner.

So Miss R bought the car, the V5 was in her name, the initial insurance quotes were in her name only, Miss R paid for the insurance and Miss R used the car more than Mr U. So I think it was reasonable for Aviva to conclude that Miss R was the car's owner and that the insurance should have been in her name. If it had known this at the time, Aviva wouldn't have offered Mr U cover.

And so I think that Mr U answered the question about the car's ownership wrongly. He said this was to get cheaper insurance. And so I think his misrepresentation was deliberate and reckless. So I think it was reasonable for Aviva to void the policy due to deliberate misrepresentation. And because of this, I think it was reasonable for it to retain the premium under the Consumer Insurance (Disclosure and Representations) Act 2012.

Mr U said that Aviva should have given him seven days' notice of cancellation. Aviva said it wasn't required to give notice as there was no notice period because it had cancelled the policy from inception. It said it had sent Mr U a letter to tell him about the voidance.

We believe that insurers should take reasonable steps to ensure that policy holders are told that their policy has been cancelled as this will have serious consequences for them and expose them to possible court action.

I can see that the letter was sent to Mr U at the correct address after his phone calls with Aviva about the car's V5. So I can't say it wasn't sent. But I think Aviva could have also emailed or phoned Mr U to tell him about the voidance. But it wasn't required to do this under the policy terms and conditions. So I can't hold Aviva responsible for Miss R driving whilst uninsured.

### **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 U to accept or reject my decision before 4 May 2018.

Phillip Berechree  
**ombudsman**