

## **The complaint**

Miss B has complained about Premier Insurance Company Limited's ('Premier Insurance's') decision to void her motor insurance policy after she submitted a claim on the policy following a road traffic incident that caused damage to her car.

All references in this decision to Premier Insurance include Premier Underwriting Ltd and its other agents.

## **What happened**

On 1 August 2022, Miss B renewed her motor insurance policy with Premier Insurance. At the beginning of July 2023, she was involved in a road traffic accident. Miss B submitted a claim for the damage caused to her car by the accident. When considering the claim Premier Insurance found that Miss B's partner, the second driver named on the policy, had a SP30 motoring offence recorded on his licence at the time Miss B renewed the policy. As a result, Miss B's claim was declined and her policy was voided on the basis that she hadn't disclosed relevant information when she renewed the policy. Premier Insurance said that if the SP30 had been disclosed, it wouldn't have offered the policy to Miss B.

Unhappy with their actions, Miss B complained to Premier Insurance. She received their final response letter, not upholding the complaint on 9 August 2023. In that final response, Premier Insurance said the policy had been correctly voided because when deciding to offer or renew that particular motor insurance policy the underwriters would not accept that type of motoring offence, where it occurred within three years of the policy's commencement. As Miss B disagreed with the outcome it had reached on her complaint she referred her to this service.

One of our investigators looked into what had happened and issued an initial view upholding the complaint in November 2023. While our investigator agreed that a careless qualifying misrepresentation had been made, initially she concluded that Premier Insurance had unfairly voided the policy, and instead should have given Miss B the option of removing her partner from the policy.

Premier Insurance responded to the view with further details of their underwriting criteria which showed that Miss B wouldn't have been offered a policy in those circumstances. After considering that further evidence, our investigator then issued a view not upholding the complaint.

Miss B didn't agree with our investigator's second view so the matter has been passed to me for a decision to be made.

## **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.

As our investigator explained, the Consumer Insurance (Disclosure and Representations)

Act 2012 ('CIDRA') is the legislation that applies to Miss B's circumstances. CIDRA requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy).

If the consumer does not take reasonable care when taking out or renewing a policy, CIDRA sets out certain actions the insurer can take. However, it must first be shown by the insurer that the representation was a qualifying misrepresentation.

CIDRA sets out a number of matters to be considered, when deciding whether the consumer failed to take reasonable care. The actions the insurer is permitted to take, under CIDRA, will depend on whether the qualifying misrepresentation was deliberate, reckless or careless.

I've first considered whether Miss B made a misrepresentation to Premier Insurance when she renewed her motor policy and I'm satisfied that she did. The renewal documents asked for details of any motoring convictions, including any fixed penalty offences which the insured or any other person who will drive had incurred in the last 5 years. On page 3 of the proposal form, under the heading 'Important Notice' it said: *'The following are examples of changes you must notify to us in respect of you or any person named as a driver under this policy, or in respect of your vehicle:*

- *Any convictions not already notified to us, including fixed penalties or pending prosecutions'.*

In the renewal letter sent to Miss B, by the broker in July 2022, on page two, under the heading: '*Fair representation of data*' it said: *'If your circumstances or other material information, has changed during the last year you must advise us before you renew your policy. If you do not, this may result in your insurance being invalidated or any claims rejected.....'*

Then at the top of page three, it said: *'Examples of material information that should be disclosed to us includes but not limited to:*

- *Any convictions for any driver (including pending or fixed penalty offences).'*

I think the question asked about fixed penalty offences by Premier Insurance in the referral documents was clear. I also note that Miss B hasn't argued that she didn't understand what she was being asked. Instead, Miss B has explained that she wasn't aware that her partner had received an SP30 motoring offence. She also said that she was away when the renewal paperwork was emailed to her. As she was busy with a number of commitments in her life, including family responsibilities, and as she was happy with the premium, Miss B let the policy be automatically renewed.

I appreciate that Miss B has a number of reasons to explain why she didn't disclose her partner's SP30 motoring offence, however, in not doing so, she failed to provide accurate information to Premier Insurance when she renewed her motor insurance policy. And I'm satisfied that the importance of providing accurate and up to date information was highlighted in the renewal documents and policy terms that I've referred to above. So, it's clear that Miss B did mis-represent the relevant information to Premier Insurance.

For the misrepresentation to be a qualifying misrepresentation, Premier Insurance needs to show that if it had received accurate information from Miss B, it either wouldn't have offered the insurance policy, or would have only offered it on different terms.

Premier Insurance has shared excerpts of its underwriting criteria for Miss B's policy with us. Having reviewed this, I'm satisfied it wouldn't have offered to renew Miss B's policy had it

known about her partner's SP30 motoring offence.

Miss B has asked to see the underwriting criteria that was shared with the Financial Ombudsman Service. However, underwriting criteria is commercially sensitive and is provided to us in confidence. As we are an informal alternative to the courts, I don't think it's necessary for that information to be shared with Miss B. However, I can assure Miss B that I've reviewed the criteria to make sure that what Premier Insurance told us, about not renewing her policy, was correct.

The remedy that CIDRA makes available to the insurer, on a qualifying misrepresentation being made, depends on whether the misrepresentation was careless or deliberate or reckless. Premier Insurance has accepted that Miss B's representation was careless, not deliberate or reckless.

As it has been agreed that a careless misrepresentation was made, Premier Insurance was entitled to void the policy and return the premiums to Miss B, as it did. It's therefore my decision that Premier Insurance has acted fairly in the circumstances, and I won't be asking it to do anything differently in relation to Miss B's complaint.

### **My final decision**

For the reason given, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 12 June 2024.

Carolyn Harwood  
**Ombudsman**