

The complaint

Miss E has complained that Aviva Insurance Limited cancelled her motor insurance policy. She wants it to agree that the cancellation was an error and that she needn't disclose it to future insurers. Miss E is represented in this matter by her father, Mr E.

What happened

Miss E took out a motor insurance policy with Aviva through an online price comparison site. In the application, Miss E stated that she had one year's No Claims Discount (NCD). As part of the policy validation, Aviva asked Miss E to upload proof of her NCD. Miss E uploaded her policy document from the previous year.

Aviva said this wasn't evidence of her NCD, so it cancelled her policy and refunded her premium except for a charge for cancellation and her time on cover. Miss E was unhappy that new cover was too expensive when she disclosed that she had been refused insurance.

Miss E brought her complaint to us, and our Investigator thought it shouldn't be upheld. She thought Aviva was entitled to cancel the policy as Miss E had made a qualifying misrepresentation. And she thought this was careless. But she also thought Aviva was entitled to cancel the policy as Miss E hadn't provided the requested proof of her NCD within its timescales.

So she thought it was fair and reasonable for Aviva to refund the premiums, less the charges. Aviva had said that Miss E needn't disclose the cancellation. But the Investigator thought Miss E would need to disclose or explain this to future insurers if she was asked to do so.

Mr E doesn't agree with the Investigator and has asked for an Ombudsman's decision. Mr E said the one year's NCD was implied and so Miss E hadn't meant to mislead Aviva.

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 can see that there's been some confusion about Miss E's previous policy and her driving licence, which Mr E has helpfully clarified. Miss E obtained a provisional driving licence in 2019 and her full licence in April 2022. Her previous policy expired in November 2022 and Miss E then applied for a policy with Aviva. I can't see whether or not Miss E accrued a year's NCD on her previous policy.

Aviva eventually cancelled Miss E's policy because she hadn't provided the required proof of her NCD despite its frequent chasers. I'm satisfied that the relevant law in this case is not The Consumer Insurance (Disclosure and Misrepresentation) Act 2012 (CIDRA). This is because Aviva didn't rely upon it to cancel Miss E's policy, but on her not complying with her policy's terms and conditions.

So I've not considered Miss E's complaint in light of CIDRA. Our approach in cases like this is to consider whether the insurer's acted in line with the terms and conditions of the policy and fairly and reasonably.

Miss E is a young driver and inexperienced in applying for motor insurance. So I've taken this into account when considering her complaint. I've looked at the question she was asked about NCD when she completed the application. She was asked:

"How many years of no claims discount do you have?"

And a help box provided information about how to find this out and what to do if you were starting from scratch. It said the NCD years would be stated on her renewal invitation from her previous insurer. I think this was a clear question asked by Aviva through the comparison site Miss E used.

Miss E chose one year, and she's explained that this was because she'd had her previous policy for a year without making any claims. And she thought this implied that she had one year's NCD. But this wasn't in keeping with the guidance given on the application.

Miss E said she didn't want to answer "0" because she thought that would imply that she had made a claim. But I can see that the application asked a separate question about claims. And so I don't think this was a sufficient reason for Miss E to state "1 year".

Miss E paid her deposit and Aviva then sent her policy documents to the email address she had provided. This eventually turned out not to be a current email address. But I can see that Aviva sent frequent chasers and reminders to Miss E using different communication methods. So Miss E was made aware that Aviva required proof of her NCD to validate her policy.

I can see that Aviva provided very clear instructions about what constituted valid proof of NCD entitlement and how to upload it. And Miss E did upload her previous policy documents. But one year's NCD entitlement wasn't stated on the policy documents she had from her previous insurer. It stated that she had zero years at the start of the policy. And I'm not satisfied that it was enough for Miss E to think it would be implied because she had said she hadn't made any claims.

Aviva then responded to Miss E saying that this document wasn't sufficient as it didn't state the number of NCD years at the end of the policy. Aviva told her what to do next. She could upload the correct NCD proof, or she could change her NCD entitlement to zero. It also explained that it would cancel the policy if she didn't act to correct the error. Aviva provided a telephone number Miss E could call if she needed help.

Mr E has explained that Miss E didn't respond to this email or to Aviva's other communications as she could see her policy document had uploaded to her online account. That was unfortunate as Miss E could then have resolved the matter.

Aviva then cancelled Miss E's policy because she didn't provide the requested proof of her NCD. I can see that it sent her many chasers using a variety of communication methods to upload her proof of NCD to her account. And I'm satisfied that Aviva acted within the policy's terms and conditions when it cancelled her policy after giving notice.

Aviva refunded Miss E's premiums except for a charge for her time on cover and the cancellation. Miss E had recalled her last payment so I think an amount may still be outstanding and it's for Miss E to repay this. I don't require Aviva to do anything further.

Aviva also said it didn't record the cancellation and Miss E needn't disclose this to future insurers because it hadn't avoided the policy. But I don't agree as Aviva did cancel the policy and Miss E has a responsibility to make a full disclosure if a future insurer asks her if she has had a policy cancelled. Miss E may then be able to explain her particular circumstances to the new insurer.

My final decision

For the reasons set out above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 12 September 2023.

Phillip Berechree
Ombudsman