

The complaint

Mr H complains Covea Insurance plc avoided his motor insurance policy (treated it like it never existed), refused to pay his claim and kept his premium.

What happened

Mr H had a motor insurance policy with Covea. When he bought a new vehicle, he phoned his broker to change the vehicle covered under his policy in November 2022. This policy was then renewed with Covea in early May 2023.

In late May 2023, when his vehicle was damaged by fire, he claimed on his policy.

Covea said he'd answered the question it asked about modifications to the vehicle incorrectly. And it considered this to be a reckless qualifying misrepresentation, which entitled it to avoid his policy, decline his claim because of this and keep the premiums he'd already paid.

Mr H complained to Covea about this. It explained, even if the initial modifications were disregarded, the change of the seats alone by Mr H was still a qualifying misrepresentation and cover wouldn't have been offered if it had known about this. However, it didn't agree the qualifying misrepresentation was reckless and changed this to careless, confirming in the letter to Mr H it had asked the broker to refund the premiums to Mr H as a result.

Mr H brought his complaint to this service for an independent review as he wants his claim to be paid. The Investigator was satisfied there had been a careless qualifying misrepresentation. As a result, they thought Covea was entitled to avoid Mr H's policy and decline his claim but should return the premium he'd paid to it. So, the Investigator asked it to refund the premiums to Mr H even though this reflected what Covea had said it'd already asked the broker to do in its final response letter (FRL).

Mr H is unhappy with this – he wants his claim to be paid in full and so the matter has now been passed to me for 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.

Covea says Mr H failed to take reasonable care not to make a misrepresentation when he didn't tell it about modifications to the vehicle when he first changed his policy to cover it or when it renewed. Mr H says he didn't realise it'd been modified as this is how he'd bought the vehicle and it was the first time he'd owned one like this. But, Covea say even if it accepted this, Mr H himself also made a modification to the seats in the vehicle after he'd bought it and before the policy was renewed.

When Mr H took out his policy and when he changed the vehicle on it, he was asked a number of questions, including about modifications to the vehicle, and Covea used this information, along with the responses to its other questions, to evaluate the risk of the policy. When the policy renewed, the information Mr H had provided previously was detailed in the policy documentation he was sent. And I'm satisfied the renewal information he received was clear - it was Mr H's responsibility to ensure the details set out in it were accurate.

In the statement of insurance from the policy renewal, it asks '*Any modifications to the manufacturers' original specification e.g. alloy wheels, suspension, bodywork or engine?*'. Mr H had answered 'No' and he didn't correct this on renewal. Whilst I appreciate Mr H says he didn't believe changing the seats was a modification, it was something he'd changed soon after he bought the vehicle and so I'm satisfied it was something he reasonably should've made Covea aware of.

Covea sent this service evidence of its underwriting criteria to show it wouldn't have continued to offer him insurance if it'd known Mr H had modified the vehicle seats. Having reviewed this evidence, I accept cover wouldn't have been provided on renewal if Covea had been given the correct information. It follows Mr H's misrepresentation was a qualifying one.

Initially, Covea said Mr H's misrepresentation was reckless but, on reviewing Mr H's complaint, it changed this to careless and arranged for Mr H's premiums to be returned to him. Although I can see Covea has recently said in correspondence with this service it considers the representation to be reckless, I see no reason to interfere with the conclusion it reached in its FRL. I say this because I don't think Mr H intended to deceive Covea and I'm not satisfied Covea has demonstrated it meets the bar of a deliberate or qualifying misrepresentation set out in CIDRA.

As I'm satisfied Mr H's misrepresentation should be treated as a careless qualifying misrepresentation, I've looked at the actions Covea can take. Having done so, I'm satisfied Covea was entitled to avoid Mr H's policy in accordance with CIDRA. As this means – in effect – his policy starting in May 2023 never existed, Covea does not have to deal with his claim following the fire in his vehicle. However, it does need to return the premiums to him from the point of renewal, as it confirmed in the FRL it has already asked the broker to do.

As CIDRA reflects our long-established approach to misrepresentation cases, I think allowing Covea to rely on it to avoid Mr H's policy produces the fair and reasonable outcome in this complaint.

Mr H mentions the salvage value of his vehicle. This isn't something I can consider in this complaint - Mr H needs to raise this with Covea and give it the opportunity to investigate this in the first instance.

My final decision

For the reasons set out above, I don't uphold Mr H's complaint. This means Covea doesn't need to do anything more than it has already agreed to do to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 February 2024.

Rebecca Ellis
Ombudsman