

The complaint

Mr K has complained that Liverpool Victoria Insurance Company Limited unfairly and unreasonably cancelled his motor policy as if it never existed on the basis that he recklessly non-disclosed who was the registered keeper of the insured car.

What happened

Mr K took out this annual policy from LV in 2021 which auto renewed subsequently. He said he was the registered keeper (meaning he was listed on the V5) and the owner of the car. A named driver was involved in a non-fault accident on 20 August 2023. So, a claim was made on this policy. In validating the claim, LV discovered Mr K wasn't the registered keeper of the car, his brother was. Given its underwriting criteria disallowed this, LV cancelled the policy as if it never existed saying Mr K had deliberately non-disclosed this information.

Mr K doesn't believe this is correct as his son looked up the internet at the time of LV cancelling the policy and found that LV would accept a policy where the policyholder wasn't the registered keeper provided that the registered keeper was at least a named driver on the policy. Therefore, as Mr K's brother was a named driver on the policy and anyway Mr K was the owner of the car, Mr K didn't think there was any such issue.

So, Mr K complained and as LV wouldn't change its stance, he brought his complaint to us. The investigator didn't think LV had done anything wrong. Mr K disagreed so his complaint has been passed to me to decide.

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.

Having done so, I'm not upholding this complaint. I'll now explain why.

I also understand and appreciate Mr K will be very disappointed with my decision and I note his claim was paid by the other driver's insurers in full. So, the pertinent issue in this complaint is simply whether LV were correct in cancelling his policy as if it never existed to include retaining the premium on the basis it believed Mr K deliberately misrepresented the issue.

The law that relates to this is called the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). Briefly this law requires the consumer to ensure the answers given to the questions asked on the application were answered truthfully and honestly. If the consumer doesn't do this and the insurer would have done something differently had it known the correct information, the misrepresentation of the incorrect answer is classed as a 'qualifying misrepresentation' under CIDRA. That then permits the insurer to have several remedies. If the insurer would have provided no cover at all, it's allowed to

cancel the policy as if it never existed. The insurer also may retain the premium, if it's clear the consumer deliberately answered the question incorrectly.

Here, Mr K was asked if he was the registered keeper of the car. Whilst he was the owner of the car, it was his brother who was the registered keeper, as he was on the V5. So, it was clearly incorrect for Mr K to say he was the registered keeper. Questions like this, concerning 'who is the registered keeper of the car?' is utterly standard for any motor insurer. That means it's not an unusual question.

LV has shown us that if it knew it was his brother that was the registered keeper it would not have offered the policy to Mr K back in 2021 as it didn't want to insure cars with this particular family relationship of a brother being the registered keeper. This forms part of its underwriting criteria for the annual (not monthly) Flow policy Mr K bought.

Insurers are entitled to decide what risks they want to cover and what risks they don't want to cover. That's part of their commercial discretion and this is allowed under the regulations of the Financial Conduct Authority which regulates all motor insurers. Different insurers will rate different things differently too. And indeed, an insurer may have several types of policies available all with different rated risks also.

Mr K said that his son found out in September 2023 on looking at the internet that LV does have a Flow policy which might allow someone other than the policyholder to be the registered keeper provided that person was also a named driver. Mr K said this meant he didn't think he was doing anything wrong.

However, LV has shown us that what Mr K's son looked up on the internet was information for a monthly policy marketed by Flow, not an annual policy marketed by Flow, like Mr K had bought back in 2021. On one of the screenshots that Mr K produced it clearly says 'monthly policy' also. So, as I said above, insurers can provide several different types of policies which will each have differently rated risks. Mr K's policy which he bought in 2021 was not this sort of monthly policy therefore what the internet told Mr K's son, didn't apply to Mr K's policy.

More importantly, when Mr K first bought this policy, the information he gave should have been correct. And he clearly wasn't the registered keeper, merely the owner. Also, when his policy renewed, he then would have had the chance to inform LV of this at that time too, but he didn't.

So that means under CIDRA, LV has clearly shown Mr K made a qualifying misrepresentation, and under CIDRA the remedy available to LV if it would have never offered Mr K this policy, is that it's allowed to cancel the policy as it never existed. Given Mr K was always aware his brother was on the V5 and therefore the registered keeper, it follows that Mr K was reckless in the answer he gave, which means LV is also entitled to retain the premium paid.

So, I consider LV has done nothing wrong here.

My final decision

So, for these reasons, it's my final decision that I don't uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 19 April 2024.

Rona Doyle
Ombudsman