

The complaint

Miss A has complained about Watford Insurance Company Europe Limited. She isn't happy that it cancelled her motor insurance policy.

What happened

Miss A took out a motor insurance policy with Watford Insurance. However, Watford Insurance went on to cancel her insurance policy as it thought she had misrepresented the fact that she had a motor insurance policy cancelled previously. And had Watford Insurance known this it wouldn't have offered Miss A insurance, so it cancelled the policy.

As Miss A wasn't happy about this and the impact this was having on her, as she hadn't ever had a policy cancelled, she complained to Watford Insurance and then this Service.

Our investigator looked into things for her, and he upheld her complaint. When he looked into things for Miss A it became clear she hadn't had an insurance policy cancelled previously and that she hadn't misrepresented. Miss A was asked a clear question and she answered it correctly, that she hadn't had an insurance policy cancelled. And as Miss A hadn't made a qualifying misrepresentation he asked Watford Insurance to put her back into the position she should have been but for the error made by only charging time on cover, refunding any charges, providing a letter of explanation that her policy was cancelled in error and £150 compensation for the stress and inconvenience caused.

As Watford Insurance didn't agree the matter has been passed to me for review.

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.

Watford Insurance initially thought that Miss A failed to take reasonable care not to make a misrepresentation when she applied for insurance as she said she hadn't had an insurance policy cancelled. I've looked at the question asked (*'Have you ever had insurance declined,*

cancelled or special terms imposed') and it's clear that Miss A did take reasonable care and she answered the question truthfully – she hadn't had an insurance policy cancelled – and so as there wasn't a misrepresentation I'm upholding this complaint. And therefore, the actions taken by Watford Insurance are unfair as they are not in line with CIDRA.

Watford Insurance seems to accept this position now and has explained that a previous insurer had recorded the cancellation incorrectly. However, it feels the other insurer is to blame here and so any compensation or redress should be taken up by the previous insurer who made the error.

While I can understand Watford Insurance's position Miss A didn't misrepresent so its actions aren't in line with CIDRA and so it can't take the steps it took. I know it feels the other insurer is responsible here. But had it clarified the position with Miss A in the first instance it would have been able to verify the position with the previous insurer and established that Miss A had chosen to cancel a policy previously as opposed to having a policy '*declined, cancelled or special terms imposed*'. I understand Watford Insurance *may* have taken different steps once all of this was clarified but it couldn't cancel the policy under CIDRA as Miss A had answered its questions correctly as she didn't have a policy cancelled which it now accepts.

So, in light of all this I think the fair and reasonable thing to do, in the particular circumstances of this case, is that Miss A should only be charged for her time on cover here and Watford Insurance should ensure that any cancellation charges are refunded, plus 8% simple interest for the time she has been without the money owed. Plus, I agree Miss A should be paid £150 compensation for the clear stress and inconvenience all this has caused her. And it should provide a letter of explanation to Miss A outlining that it cancelled her policy in error and ensuring any internal and external systems are marked accordingly. I know Watford Insurance has already agreed to do this and outlined this in a separate letter to Miss A, but for completeness a separate letter just covering this issue would be helpful.

My final decision

It follows, for the reasons given above, that I've decided to uphold Miss A's complaint. I require Watford Insurance Company Europe Limited to only charge Miss A time on cover and should refund any cancellation charges paying 8% simple interest from the date of cancellation until the date of settlement. And it should pay £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 22 March 2024.

Colin Keegan
Ombudsman