

The complaint

Mr D has complained that due to an error that Liverpool Victoria Insurance Company Limited trading as LV made, when he was setting up his motor policy, he now has to pay more premium.

Mr D is represented by his stepfather Mr B. However, for ease of reference I shall mainly just refer to Mr D throughout.

What happened

Mr D called LV in August 2023 to set up a new motor policy. However, on that call despite Mr D giving the right information, the LV adviser said Mr B was the person with the No Claims Discount (NCD) and the owner and registered keeper of the car, whereas in fact it was Mr D who was the owner and registered keeper of the car and the holder of the NCD. On the basis of this error by LV's adviser, this information generated a premium of £2,300.29 which was accepted by Mr D. LV duly sent the policy documents to Mr D who noticed the error and contacted LV.

When all of Mr D's details were entered being the NCD holder, and the owner and registered keeper of the car, LV said this increased the premium amount by another £624.36 so the total annual premium cost was then £2,924.65.

Mr D complained, as he felt that as an offer was made and accepted and paid for by him then it's not right the premium amount can then be changed afterwards. LV agreed its adviser made an error, but it said this was the right premium price on the risk now presented. But it also agreed Mr D was put to some inconvenience, so it paid him £150 compensation.

Mr D wasn't satisfied and brought his complaint to us. The investigator thought LV didn't have to do anything more. Mr D 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 do understand and appreciate Mr D's strength of feeling on the matter. But it's not fair or reasonable to take advantage of a situation where a mistake clearly occurred which was unintentional. LV's adviser appears to have inputted the detailed information to the wrong person which then changed the risk being underwritten. Mr D's risk profile as owner/registered keeper plus NCD holder is different to that of Mr B. Mr B's risk profile produced a lower premium than Mr D's. Had it been the other way around and Mr D should

have paid less premium as a result, then it would be reasonable and fair for Mr D to get a refund because he had paid too much.

Mr D received his initial policy documents on 11 August 2023 according to the date of the letter. Following Mr D noticing the mistake he then received his new policy documents on 1 September 2023, again according to the date of the letter. Cover under the policy started on 16 August 2023. In the letter of 11 August 2023, LV rightly said *'Check all the documents and let us know if anything is incorrect'*. Later in the same document it says:

'Please read everything that makes up your contract as one document. Is all this information correct? If not please let us know straight away so we can get it right – if you don't, we may reject any claim or reduce the payments we make and in some circumstances we may cancel your policy (treat it as if it never existed).

Please check through your documents to make sure you're happy with the level of cover you've selected and double check your excesses. Please also check that you don't have any of the same cover with another provider.'

On the attached Insurance Product Information Document, it explains the cooling off period as follows:

'Within 14 days of receiving your documents – we'll refund any money you've paid, less a charge for the cover you've had. If you cancel before your policy starts, no charges will be made.

After 14 days, if you've not made a claim, we'll refund any money you've paid, less a charge for the cover you've had and a cancellation charge of £40.'

In the document entitled 'terms and conditions' it says the following:

'Giving us the correct information

It's important you given us correct information as we could cancel your insurance back to the start date and/or not pay a claim if you don't. Please check your documents and let us know if you think anything is wrong or doesn't seem right. If you're not sure whether you need to tell us something, please ask.'

Under the General conditions section, it also says the following:

1. *'Giving us correct and up to date information*

When you buy or amend you policy please answer all the questions truthfully and to the best of your knowledge for everyone covered under your policy. Your personal details will show the answers you've given – if anything is wrong, you need to correct it as soon as possible.'

Under the section entitled 'Our rights to cancel your insurance it says the following:

We'll cancel your insurance by giving you 7 days' notice if

- *We find any attempt to gain an advantage under this policy to which you're not entitled...'*

So, at every stage, LV's policy (in common with every other motor insurer and indeed the law relating to such matters), explains that it is the policyholder's duty (not LV's duty) to check and make sure all the information is correct. And if it's not it is the policyholder's duty to inform LV so it can be corrected to include then paying the correct amount of premium.

This duty is relevant to any insurance policy. It is always the policyholder's duty to check the information is correct on receipt of the policy documents and within 14 days. So, it's actually quite irrelevant as to which party made the mistake, the policyholder is the entity under the duty to check that there are no mistakes in the facts pertaining to their application.

Contract law endorses this too as the general principle says the law of mistake comprises a group of separate rules in English contract law. If the law deems a mistake to be sufficiently grave, then a contract entered into on the grounds of the mistake may be void. So, the law does allow mistakes made in a contract of insurance to be rectified and furthermore the 'contract' being the 'offer and acceptance and passing of consideration' can be void if a mistake occurred which was not appropriately corrected.

Here unfortunately for Mr D, LV made the mistake, but Mr D correctly told it about that mistake and the policy was re-rated properly on the basis of the correct information which meant Mr D had to pay more premium. However, if Mr D had not notified LV of its mistake on receiving his policy documents, then it could have caused serious issues if Mr D had to make a claim as he would have been under-insured, and it would be deemed he failed in his duty to check the policy documents.

On receiving the increased premium, Mr D was free to cancel his policy at no cost to him and find a cheaper alternative. Therefore, Mr D was under no duty to pay the extra premium if he didn't want to. Consequently, there was no detriment to him either. In real terms Mr D was consequently put back into the same position he should have been in, had the mistake not happened.

Obviously, this mistake did mean Mr D was under a duty to pay more premium. And that is a loss of expectation causing him some inconvenience. Therefore, I consider it was also reasonable for LV to pay Mr D some compensation. Like the investigator I consider the payment of £150 compensation to be fair and reasonable as it's in line with our published approach on such issues.

On that basis I don't consider LV needs to do anything more. It now remains for Mr D to pay the further premium required also, to or cancel his policy, as I understand it's not yet been paid.

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 D to accept or reject my decision before 5 August 2024.

Rona Doyle
Ombudsman