

## **The complaint**

Miss T has complained that Wakam hasn't paid in full a claim under her home insurance policy for accidental damage.

## **What happened**

In 2022 Miss T took out a home insurance policy with Wakam. In 2023 she made a claim for accidental damage.

After an investigation Wakam said Miss T hadn't answered a question about previous claims correctly when she applied for the policy. It considered this to be a careless misrepresentation which entitled it to settle her claim based on the proportion the premium she'd paid bears to the premium it would have charged her if she'd told it about the previous claim. It said her premium was 80% of what she would have been charged if she'd told Wakam about this claim, so it would only pay 80% of the claim for accidental damage.

Miss T said she hadn't made a previous claim for storm damage. She said she'd only asked her insurer whether she was covered when her fence was damaged.

Wakam said details of a claim for storm damage had been added by Miss T's previous insurer to the Claims and Underwriting Exchange (CUE). It said if she thought this was wrong, she should contact her previous insurer.

Miss T brought a complaint to this service. As part of her evidence she provided a letter from her previous insurer. That insurer said the details it had put on CUE were correct as there had been a claim but the policy didn't cover storm damage to fences. Our Investigator didn't uphold the complaint. He didn't think Wakam had treated her unfairly.

As Miss T didn't agree, the matter has been referred to me.

## **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 Representation) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out an insurance policy like the one Miss T bought. The standard of care is that of a reasonable consumer.

If a consumer fails to take reasonable care, then the insurer has certain remedies providing the misrepresentation is what is referred to in CIDRA as a qualifying misrepresentation. The insurer will need to prove it's a qualifying misrepresentation by showing the consumer failed to take reasonable care and that it wouldn't have offered the policy at all or offered a policy on different terms.

When the policy was taken out, Miss T was asked:

*“How many claims have been made by the people covered on this policy in the past 5 years, which could have been covered under this policy?”*

After the question there is an “i-text” which explains that claims must be declared even if they were declined by the insurer.

I think that was a clear question. I appreciate that Miss T says she didn’t make a claim. But this isn’t consistent with the details on CUE which records that a storm claim was made in 2021.

As an insurer Wakam is entitled to check the details provided by a consumer when taking out a policy and this will typically include checking the consumer’s claims history as recorded on CUE to see whether it matches what the consumer told it when taking out the policy. Claims history is an important factor for insurers in deciding whether to offer cover and if so, on what terms, including the premium.

Based on the information recorded on CUE, I think it was reasonable for Wakam to conclude that Miss T hadn’t given it correct information when taking out the policy. I appreciate that this is hard on Miss T but if she thinks the details on CUE are wrong, this is something she should pursue with her previous insurer.

Wakam has said that if Miss T had told it about the previous claim, it would have charged her a higher premium. This means I’m satisfied Miss T’s misrepresentation was a qualifying one.

Wakam accepts that the misrepresentation was careless as opposed to deliberate or reckless. The remedies for careless misrepresentation allow Wakam to settle her claim proportionately and in this case that means paying 80% of the claim. So I’m not persuaded that Wakam has treated Miss T unfairly in the way it settled her claim.

### **My final decision**

For the reasons set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss T to accept or reject my decision before 11 September 2024.

Elizabeth Grant  
**Ombudsman**