

The complaint

Mr A complains Admiral Insurance (Gibraltar) Limited avoided his home insurance policy and declined to pay his claim.

What happened

Mr A had home insurance with Admiral, which renewed in late 2022. In December 2022 he made a claim for a damaged iPad. As part of considering the claim, Admiral asked Mr A about the use of his home for business purposes.

Mr A indicated he had £30,000 of business stock and equipment at his home. Admiral said it wouldn't have insured him had it known about this, so it thought Mr A had made a careless qualifying misrepresentation. It avoided his policy and declined his claim.

Mr A brought his complaint to our service. The investigator thought it should be upheld as she didn't think there had been a qualifying misrepresentation. Mr A accepted the investigator's recommendation. Admiral didn't, so the complaint is with 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.

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.

Admiral thinks Mr A failed to take reasonable care not to make a misrepresentation when he took out the policy in 2015. It's provided screenshots to show the online sales journey which it says demonstrates this. However, what matters is here is what happened at the 2022 renewal, when a new consumer insurance contract was entered into.

Mr A was provided with a Home Proposal Confirmation letter. The purpose of this letter was for Mr A to check the information was correct and let Admiral know if anything was wrong. Mr A didn't tell Admiral anything was wrong, so a new contract of insurance was issued.

There is a section titled 'Use of Your Home'. It says: "*Business use: Clerical Business use*". Given what I know of Mr A's business, I find him considering he used his home for 'clerical business use' reasonable. The letter makes no reference to the value of business stock and equipment held at Mr A's home. Nor does it ask him for any information about it.

I'm not persuaded that, when the policy in question started, Mr A failed to take reasonable care over the value of business stock and equipment held at his home given he wasn't asked whether he kept stock at his property, nor was he asked for a value. It follows I'm not satisfied there was a qualifying misrepresentation and I therefore find Admiral has not treated Mr A fairly, or in line with CIDRA.

The investigator recommended Admiral do the following to put things right:

- Remove any record of the void policy from any internal and external databases;
- Consider Mr A's claim within the remaining terms and conditions of the policy;
- Pay Mr A the difference between the cost of his Admiral policy and his alternative policy (£415.81); and
- Pay Mr A £200 compensation.

I consider this fair and reasonable redress in the circumstances as it puts Mr A in the position he ought to have been in had Admiral not unfairly avoided his policy and declined his claim. Mr A has also been caused unnecessarily distress and inconvenience during what was an already difficult time for him personally. Compensation for this is also appropriate.

My final decision

I uphold this complaint and require Admiral Insurance (Gibraltar) Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 31 July 2023.

James Langford
Ombudsman