

The complaint

Miss J complains about Admiral Insurance (Gibraltar) Limited ("AIL") and their decision to decline the claim she made on her home insurance policy, before voiding it and returning her premiums. Miss J also complains about the impact this had on her motor insurance policy, also provided by AIL.

What happened

In January 2022, Miss J took out Multicover insurance policy, underwritten by AIL. This policy insured Miss J's car and the contents of her home.

Unfortunately, in early August 2022, Miss J says an electrical surge in her home damaged her contents within it. So, in early September, Miss J contacted AIL to make a claim on the contents aspect of her policy.

AIL appointed a separate validation company, who I'll refer to as Q, to validate Miss J's claim. And this included an interview with Miss J, held in October. Within this interview, Q were made aware of a conviction Miss J was issued in May 2022. And they noted this wasn't disclosed on Miss J's policy. So, they made AIL aware of this, for AIL to consider what they wanted to do next.

AIL considered this information and took the decision to void Miss J's contents policy back to the date her conviction was issued on 12 May 2022. And they refunded any premiums Miss J paid after this time. As the policy was voided back to this date, this meant Miss J's policy wasn't in place in early August, when Miss J stated the damage to her contents had occurred. So, AIL refused Miss J's claim.

AIL also placed the cancellation charge for Miss J's contents policy on her motor policy, which remained active. But Miss J didn't pay this fee and so, her motor policy was also cancelled. But this has since been reinstated and renewed, with the cancellation fee being waived.

But Miss J was unhappy about AIL's decision to decline her contents claim, so she raised a complaint. This complaint included, and is not limited to, Miss J's belief that AIL's decision to decline her claim was an unfair one. She was unhappy with the long term impact the voidance would have, as this needed to be disclosed to future insurers. And she didn't think AIL made it clear exactly why they had taken this decision, as AIL also provided documentation that suggested they felt she had been fraudulent. So, Miss J wanted AIL to reinstate her contents policy, pay the claim and then compensate her for the upset she'd been caused.

AIL responded to the complaint and upheld it in part. They accepted their handling of Miss J's complaint could've been better, and paid Miss J a total of £50 compensation to acknowledge this. But they thought they had acted fairly, and in line with the policy terms and conditions, when declining Miss J's claim and voiding the policy as they thought Miss J had failed to disclose her conviction. And that had Miss J done so, they would've refused to provide cover due to the increase in risk, as set out within their underwriting criteria. So, they

didn't think they needed to do anything more. Miss J remained unhappy with this response, so she referred her complaint to us.

Our investigator looked into the complaint and didn't uphold it. They issued two outcomes, in April and July 2023. And in both, they thought AIL had acted fairly, based on the policy conditions, as they had seen no evidence to show Miss J had made AIL aware of her conviction. And they were satisfied AIL's underwriting criteria showed that, had she done so, the policy would've been cancelled. So, they didn't think AIL needed to do anything more.

Miss J didn't agree and provided a series of comments explaining why. These included, and are not limited to, Miss J's belief that she had made AIL aware of her conviction. And, that the voidance was unreasonable considering its significance and impact on her ability to obtain future insurance. As Miss J didn't agree, the complaint has been passed to me for a decision.

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 the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I want to recognise the impact this complaint has had on Miss J. I understand the impact the voidance of her policy will have had on Miss J, as this is an additional risk other insurers will consider when deciding whether to offer Miss J cover in the future. So, I can appreciate why Miss J feels unfairly treated, due to the potential financial implications of this. And so, I can appreciate why Miss J would complain about this and ask that AIL reverse their original decision.

But for me to say AIL should do this, or something more than they already have, I first need to be satisfied they've done something wrong. So, I'd need to be satisfied they acted outside of the terms and conditions of the policy Miss J held when declining her claim and voiding her policy. Or, if I think they did act within these, I'd need to be satisfied they acted unfairly in some other way. And in this situation, I don't think I can say that's the case.

I want to reassure Miss J that I've considered all the comments she's put forward. And I recognise this is a clearly emotive issue, with a variety of concerns raised. But to ensure I remain clear and concise, I will be focusing and commenting mainly on the crux of the issue, which I think centres around AIL's decision to decline the claim she made on her contents policy in September 2022.

I've already set out above the actions AIL took regarding the claim. The policy was voided by AIL because they felt Miss J failed to disclose her conviction while the policy was live, rather than at policy inception. So, as the issues centre around a mid-term adjustment, or the failure of Miss J to make one, I don't think The Consumer Insurance (Representations and Disclosures) Act 2012 ("CIDRA") is relevant here, as this is only relevant for misrepresentations at policy inception.

So, I've focused on the terms and conditions of the policy Miss J held, to think about whether AIL acted fairly when taking the actions they did. These terms and conditions explain on page 3 of the booklet, under the title *"Important"* that *"It is important that you tell us if any of the details on your home policy schedule, home proposal confirmation or home renewal*

confirmation are wrong, or if any of the information changes during the period of insurance. If you do not tell us about incorrect information or changes to details we can:

- *Refuse to pay your claim*
- *Reduce the amount of cover you have, or*
- *Declare your policy void (that is, treat it as if it had never existed)."*

They then go onto provide a list of circumstances that Miss J was required to notify them of immediately. And this included *"you or anyone living with you is convicted of, has been charged with or waiting to hear about being charged for a criminal offence."*

I've seen Miss J's contents policy proposal. And it states clearly that Miss J confirmed *"You do not have any unspent or pending criminal convictions"*. And I understand why Miss J may have felt that to be true at the time, as she states she chose to change her plea after the policy inception.

But I think it should've been reasonably clear to Miss J that, once she changed her plea or at the very least received her conviction in May 2022, that she would need to make AIL aware of this. And I've seen no evidence to show that she did.

I note Miss J disputes this, but she's been unable to provide evidence of any calls made to AIL after this time. And AIL themselves have shown they have no record of any calls where Miss J made them aware of this conviction. So, without this evidence, I don't think I can say AIL were unfair to assume this information wasn't disclosed.

And because of this, I don't think I can say AIL acted outside of their terms and conditions when taking the actions they did. But as I've explained above, I must also be satisfied they acted fairly when doing so. And to decide this, I must be satisfied the change Miss J failed to disclose caused a fundamental change in the risk associated to the policy.

AIL have provided their underwriting criteria, which is commercially sensitive and so cannot be shared directly. But I'm satisfied that any criminal conviction, full or pending, was a significant risk factor that determined whether they would offer cover. And I'm satisfied that had Miss J made AIL aware of her conviction, cover would've been withdrawn at that point. So, I'm satisfied AIL were fair when taking the actions they did, as they were the same as the actions they would've taken, had Miss J complied with the conditions of the policy she held. So, I don't think AIL need to do anything more regarding this.

I understand after this was communicated to Miss J, she then stated some of her contents had been damaged in February 2022, before the policy voidance. But I note this material change in testimony only came after the voidance. And I can't see this follows the information Miss J gave Q in her interview, where it's noted she felt the majority of the damage came after a significant electrical surge in August. And it is this conflict that led AIL to quote the terms in their policy that relate to fraud.

Having considered the material change, I do think these suggested inconsistencies in Miss J's testimony. So, I don't think I can say AIL were fair to then refer Miss J to these terms in an explanation as to why they wouldn't been looking to reconsider Miss J's claim. But I note they haven't taken any further action, and the voidance remains from May 2022, with premiums being refunded. And this is a better position that Miss J would've been in had AIL declined the claim on a fraudulent basis, as premiums aren't required to be refunded in that situation.

I do recognise this may have created some confusion for Miss J on why her claim was declined, and I appreciate how this may have impacted Miss J emotionally. But I think the initial decline, and AIL's reasoning, was made reasonably clear. And I don't think there was any information or evidence supplied by Miss J after this original decline that should've led AIL to reconsider the claim. So, I don't think it would be fair, or proportionate, for me to then say that AIL should offer Miss J compensation here.

I also note Miss J had issues with a fee placed on her motor policy, which ultimately led to its cancellation. But I recognise AIL have since reinstated this policy and waived the fee as a gesture of good will. So, I think Miss J is back in the position she would've been, had this not happened already. And I note that most of this was handled through AIL's complaint process, as by this time Miss L had raised her concerns about the original decline in the first instance.

Our service doesn't have the jurisdiction to consider the way a business handles a complaint, as this is an unregulated activity. So, I'm unable to comment on any actions AIL took during the complaint process.

I recognise this outcome is unlikely to be the one Miss J was hoping for. And I recognise this leaves Miss J with a voided policy she will need to declare, which may have a financial impact on her when attempting to obtain future insurance. But as I've set out above, I think AIL voided Miss J's policy, and declined her claim, fairly based on the information they had available to them. So, while I appreciate the impact this situation has no doubt had on Miss J overall, I don't think AIL need to do anything more on this occasion.

My final decision

For the reasons outlined above, I don't uphold Miss J's complaint about Admiral Insurance (Gibraltar) Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 27 November 2023.

Josh Haskey
Ombudsman