

## **The complaint**

Ms F complains that HCC International Insurance Company Plc trading as Tokio Marine HCC rejected a claim on her bicycle insurance policy and said her policy was void.

Where I refer to HCC, this includes its agents and claims handlers acting on its behalf.

## **What happened**

Ms F made a claim on her policy after her bike was stolen. HCC asked for her various pieces of information to assess her claim. Ms F was unhappy with the amount of time taken to consider her claim and complained about delays.

After considering everything she provided, HCC told Ms F that the claim would not be covered and that her policy would be declared void. Ms F complained about this decision.

In its final response to the complaint HCC said:

- it had been necessary to request evidence from Ms F and there was no unnecessary delay while dealing with this;
- Ms F had made two previous claims for stolen bicycles which she hadn't disclosed;
- she had been asked a clear question about this when she bought the policy;
- if it had known about the two earlier claims, it would not have offered the policy to her.

Ms F referred her complaint to this service. Our investigator did not agree that Ms F was asked a clear question and didn't think it was fair to decline the claim and void the policy. He said HCC should reinstate the policy, remove any record of it from any database and consider the claim.

The investigator also asked HCC to pay compensation of £200 for the distress caused to Ms F and compensate her for any costs she incurred (on receipt of evidence of this) as a result of being without her bicycle.

HCC disagrees and has requested an ombudsman's 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.

In making my decision I need to consider what's fair and reasonable in all the circumstances of the case, taking into account relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and (where appropriate) what I consider to have been good industry practice at the time.

HCC was entitled to ask Ms F for evidence in support of her claim. But once it received that information HCC decided to void Ms F's policy, saying there had been a misrepresentation. So I've considered whether that decision was fair.

The relevant law that applies in this case is the Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA"). CIDRA says a consumer has a duty to take reasonable care not to make a misrepresentation when taking out a policy.

If HCC can show there was a misrepresentation as a result of Ms F failing to take reasonable care and that it would have done something different if there had not been a misrepresentation, that would be what CIDRA refers to as a qualifying misrepresentation. It can then apply one of the remedies set out in CIDRA.

When considering whether Ms F took reasonable care, one of the things to consider is how clear and specific were the questions Ms F was asked.

Ms F was asked to confirm a number a number of statements, including

*"In the last five years, neither I nor anyone whose property is to be insured have sustained any loss or damage which would have been covered by this type of insurance."*

HCC says this was a clear question but I disagree. It isn't specific about claims for loss of a bicycle. And it talks about any loss or damage which would have been covered by this type of insurance. I think that's quite wide and quite vague. A consumer wouldn't necessarily know whether a claim would be covered by the insurance.

HCC has referred to its underwriting criteria when saying it wouldn't have offered the policy if it had known about the previous claims. The criteria refer to previous claims and that's what HCC wanted to know about. It could have asked a question about this. Indeed that's what would typically be done; insurers want to know if the consumer has made previous claims and so will ask them questions about this.

A question about this could have been very clear and specific – for example asking Ms F how many claims she had made for bicycle theft in the last five years (or any other period it needed to know about). Ms F wasn't asked a question about previous claims.

For these reasons I don't consider there has been a qualifying misrepresentation. It follows that HCC was not entitled to treat the policy as void so it should be reinstated. And if HCC has recorded it on any database (either its own internal database or an external one) this record should be removed. It should then go on to consider her claim in line with the policy terms.

Ms F says the bicycle was her only means of transport and she was left without it for longer than was necessary. She hasn't provided details of additional costs she incurred in having to get around without the use of the bike but if she incurred travel costs (for example bus fares) that wouldn't otherwise have been incurred but for HCC wrongly voiding her policy, I agree it's reasonable for HCC to consider those costs – subject to Ms F providing evidence of her costs and those costs being reasonable.

It would have been upsetting for Ms F to be told not only that her claim wouldn't be paid but that her policy was void. And she was put to some inconvenience in having to pursue the matter. I agree a payment of £200 would be fair to recognise the distress and inconvenience caused.

### **My final decision**

I uphold the complaint and direct HCC International Insurance Company Plc trading as Tokio Marine HCC to

- reinstate the policy and assess the claim in line with the policy terms;
- remove any information recorded on any internal or external database to say that Ms F has had a policy voided;
- subject to receiving evidence from Ms F of any reasonable and proportionate costs she incurred as a result of being without her bicycle, compensate her for those costs; and
- pay compensation of £200 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 13 October 2023.

Peter Whiteley  
**Ombudsman**