

The complaint

Mr A and Mr A complain about Accredited Insurance (Europe) Limited (Accredited) who avoided their cover (treated it as if it didn't exist), following a claim under their home insurance policy.

What happened

Mr A and Mr A obtained cover with Accredited from October 2022. In December 2022, they made a claim for an escape of water. They instructed a contractor to assess the damage and he estimated the damage costs to be between £20,000-£40,000.

Mr A and Mr A made a claim to Accredited. During the claim investigation process, Mr A and Mr A told Accredited that the property wasn't occupied nor was it the main residence. And they wouldn't be moving into the property until February 2023. Accredited declined the claim as it said that Mr A and Mr A had not complied with the occupancy term of the policy. And had made a misrepresentation, when they purchased the policy. Accredited then voided the policy (treated it as if it had never existed) and cancelled it.

Mr A and Mr A raised a complaint to Accredited. They said that the gap between the visits was no more than 22 days. They had also purchased curtains to make the property appear inhabited. And they regularly visited the property every two to three weeks.

In its final response, Accredited maintained its position. As Mr A and Mr A had not occupied the property as the policy permitted, then the decision to void the policy would stand. It also advised Mr A and Mr A that it deemed the misrepresentation as careless and not deliberate. And would therefore provide them with a full refund of the premiums paid. As Mr A and Mr A had been given their referral rights, they referred a complaint to our service.

One of our investigators considered the complaint and didn't think it should be upheld. His view was that Accredited had been fair to void the policy as it had assessed the misrepresentation as careless. He said that Accredited also indicated that it would be refunding the premiums paid by Mr A and Mr A, which he said was fair. He concluded that Accredited wouldn't have offered cover, had it been made aware about the lack of occupancy of the property. So, there was nothing further he could reasonably ask Accredited to do.

Accredited accepted the view, Mr A and Mr A did not. They said that the specific term wasn't clearly explained to them. Nor did the policy or Accredited indicate how serious not complying with the occupancy term would be. They believed that it was unreasonable and unfair for Accredited to avoid the policy, which ultimately placed financial strain and stress on them of looking and obtaining alternative insurance.

They felt that Mr A's specific vulnerabilities were not considered. And that the impact of the avoidance wasn't taken into account either. They felt that their actual complaint should've been raised against the broker who sold the policy and despite making a subject access

request with the broker, this was ignored. So, they asked for a decision from an ombudsman.

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 won't uphold this complaint, for much the same reasons as our investigator, which I understand is likely to be a disappointment to Mr A and Mr A. But I hope my findings go some way in explaining why I've reached this decision.

I appreciate that Mr A and Mr A have provided several detailed comments, all of which I have carefully considered. As an informal dispute resolution service, we are tasked to investigate complaints, with the minimum of formality and on a fair and reasonable basis. With this in mind, I think it's important to focus on what the main issues of the complaint are, rather than address all points that Mr A and Mr A have raised. And I think the main issue of this complaint is whether Accredited were fair and reasonable to avoid the policy, based on the policy terms and conditions.

I should point out that in this complaint, as the policy was cancelled by Accredited, Accredited are the correct party as it is the underwriter of the policy. If Mr A and Mr A had specific complaints regarding the sale of the policy, that should be directed to their broker.

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 must 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 several 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.

Accredited said that there is an onus on a policyholder to ensure that the information they provide is accurate and factually correct. It also said that had it been made fully aware of the lack of occupancy, it would not have offered cover. Based on this, Accredited said that the misrepresentation made by Mr A and Mr A, was careless. And they avoided the policy and refunded the premiums paid.

Mr A and Mr A initially purchased the policy online. During the quotation process, Accredited provided evidence of the questions that Mr A and Mr A were asked. One of which was: *'When is the property normally occupied?'* To which the reply was: *'during the night'*. Accredited said that the implication from Mr A and Mr A was that the property would be occupied, in accordance with the policy terms.

However, when Mr A and Mr A made the claim and they were asked to provide details about what happened, Mr A told Accredited that he hadn't been occupying the property and hadn't intended to occupy it fully for a few months.

Following the purchase of the cover, Accredited, said that it emailed the policy documents and advised them to read the documents to ensure the cover met their needs. I have been provided with the purchase confirmation letter that it sent to Mr A and can see that he was advised to carefully read all the documents.

Accredited said that the documents made it transparent, that Mr A and Mr A ought to provide clear and accurate information. It also highlighted the consequences of failing to do so. I've reviewed the policy terms and conditions, and there is a section right at the beginning of the document. As well as in the insurance product information document (which I note is only two pages long) under the section entitled '*what are my obligations*,' it clearly warns that a policyholder must provide accurate and up to date answers, to all questions that are asked. It also outlines the consequences of not doing so, '*If you do not do the things above, this could reduce your insurance cover and we may not pay any claim you make*'.

It further states under the general conditions, that failure to provide accurate information could result in Accredited, treating their policy as though it never existed. And further warns of the obligation of reporting any changes in circumstances. Again, there is a warning about what could happen if this isn't done. So, I'm satisfied that Mr A and Mr A were told of the importance of giving accurate information.

From the evidence, Mr A and Mr A told Accredited that although frequent visits were being made to the property, the property wasn't a main residence. And although they were visiting, they did not sleep at the address:

'I applied for my policy, on exchanging contracts for the purchase of my house, in October 2022. My intention was to make regular visits, every 2-3 weeks for several days at a time, to furnish the house and to supervise some minor repairs and adjustments (such as the removal of a wood burning stove); and to move in in stages, and fully at the latest by February 2023 (with no intention for several months beyond that of being absent for more than 3-4 days in any month). Among the first steps I took were to oversee the installation of a high quality monitored burglar alarm and to fit curtains to overcome the appearance on purchase that the house was unattended.

In practice the gap between my visits has never exceeded 22 days and has usually been shorter. At the end of each visit my builder and I have carried out a thorough visual inspection to make sure everything is in order, as he is willing to confirm. Most visits have been for around a week. On each occasion I spent most of each day in the house, sleeping a few metres away in the house next door (which my father owns).'

From this, I think it's clear that Mr A's intention wasn't to occupy the property, until a few months after he had completed the purchase of it. So, as Accredited has shown that this is contrary to the policy terms and conditions, I'm satisfied that Mr A hadn't permanently occupied the property in accordance with its terms.

Additionally, I can see that the policy defines what is meant by unoccupied:

'Lived in means slept in frequently (we will not accept visits to the home or occasional overnight stays as living in your home). We consider your home to be unoccupied from the first day that the home was not lived in, which may be before the date this insurance starts.'

As Mr A and Mr A accept through their admission that the property wasn't occupied (that is slept in) I can't agree that Accredited were unfair or unreasonable to rely on this term also, when it avoided the policy.

I understand that Mr A and Mr A have raised Mr A's, specific vulnerabilities that should be considered. Having read the evidence, I can't see that Mr A brought his vulnerabilities to the attention of Accredited. I appreciate that he said that he found it impossible to locate a phone number for Accredited, but the policy documents highlight and display the phone number clearly. So, I think had there been an issue that Mr A required assistance with, I'm satisfied he could've contacted Accredited.

Accredited has provided its underwriting criteria and it said that had it been made aware of the unoccupancy, it wouldn't have offered cover. Consequently, I think this error made by Mr A and Mr A, amounts to a qualifying misrepresentation.

I've next looked at the actions Accredited can take in accordance with CIDRA and one of the remedies allows for it to void Mr A and Mr A's policy. Which lets it not have to deal with his claim following the escape of water. Accredited said that as Mr A failed to disclose the lack of occupancy, it would not have offered cover. Considering this, I agree that the misrepresentation was careless, and I'm satisfied that Accredited was fair to rely on CIDRA to void Mr A and Mr A's policy. Finally, Accredited has agreed to refund in full all the premiums paid by Mr A, which I think is fair.

Taking everything into consideration. I find that the onus was on Mr A and Mr A to disclose factually correct information as required by the terms of the policy. Which then would've allowed Accredited to make an informed choice as to whether it would've wanted to take on the risk. As this wasn't done, I'm satisfied that Accredited provided enough evidence to show there had been a qualifying misrepresentation. And I think it was reasonable to void the policy (treated it as if it had never existed). I also think that it was fair to agree to refund all premiums paid since inception of the policy. Consequently, there is nothing further I can reasonably ask Accredited to do here.

My final decision

Accredited Insurance Europe Limited has agreed to refund all the premiums from the date of inception to the date the policy was voided. And I think this offer is fair in all the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Mr A to accept or reject my decision before 23 February 2024.

Ayisha Savage
Ombudsman