

The complaint

O has complained that U K Insurance Limited (UKI) has rejected its claim under its Property Owners insurance policy for damage to a rental property it owns.

Any reference to UKI includes its agents.

O is represented by Mr H.

What happened

O's property was damaged as a result of it being used for the illegal cultivating of drugs. O made a claim for the damage under its policy with UKI, which it had taken out through an insurance broker. UKI declined the claim on the basis that O had breached a condition precedent to the cover under the policy extension for damage resulting from the illegal cultivation of drugs in the premises. This condition required O to carry out internal and external surveys of the premises at least every three months and maintain a written log of these inspections, to obtain satisfactory written references from a previous managing agent or landlord or employer of the tenant and to have collected at least one payment from the tenant's bank account.

O complained to UKI, but it wouldn't alter its position. So, Mr H asked us to consider O's complaint. One of our investigators did this. He said it should be upheld on the basis UKI had failed to highlight the abovementioned condition in the Product Summary it had provided for the policy. He said UKI should accept O's claim and pay it £250 in compensation for inconvenience.

O agrees with the investigator's view. But UKI does not agree with it and has asked for an ombudsman's decision. It has said that it was the insurance broker's responsibility to highlight the abovementioned condition when it sold the policy, not UKI's.

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've decided to uphold it for the same reasons as the investigator.

Under the rules covering the sale of general insurance policies the Insurance Conduct of Business Sourcebook (ICOBS) UKI is responsible for producing the information that needs to be provided to customers when a policy is sold and the broker is responsible for providing it to the customer.

ICOBS also says the level of information required will vary according to the knowledge, experience and ability of a typical customer and that it should include the policy terms, including its main benefits, exclusions limitations and conditions. And it says that to act in the best interests of the customer the insurer needs to consider the customer's information needs including the relevance of any information provided.

ICOBS also says that for commercial customers, like O, the information that needs to be provided to the customer could be included in either a policy summary or similar document or in an Insurance Product Information Document (IPID). It also sets out the information that needs to be included in an IPID and then makes it clear that this is also the information that needs to be included in a policy summary or similar document. This information includes the main policy exclusions and any obligations at the start of the policy and during its term.

So, I'm satisfied that UKI is responsible for the information in the Product Summary it produced for the policy and that the broker provided to O. I've seen this document and it did not include the abovementioned condition relating to the policy cover for damage caused by the illegal cultivation of drugs, despite the fact the condition is a condition precedent to cover and included obligations at the start of the policy and during it. So, I think it should have been included in the Product Summary. I also think it needed to be included as it is what I consider to be one of the main conditions of the policy. I say this because damage caused by the insured premises being used to cultivate illegal drugs is a key risk for a landlord and they need to understand what they need to do to make sure this risk is covered.

The condition wasn't included in the Product Summary and was instead only included on page 21 of the Policy Document, which is a 78 page document. And this means I do not consider UKI fulfilled its obligations under ICOBS as set out above.

In view of this, I've also considered whether UKI's failure to fulfil its obligations prejudiced O's position. And I think it did. This is because I think if this condition had been included in the Product Summary, Mr H would have seen it and he would have made sure O complied with it. And then UKI would not have rejected his claim because of his apparent failure to comply with it.

I also agree with our investigator that UKI's rejection of O's claim, which resulted from its failure to include the right information in the Product Summary caused O some inconvenience. And I also agree with our investigator that UKI should pay O £250 in compensation for this.

Putting things right

It therefore follows that, for the reasons set out above, I consider the fair and reasonable outcome to O's complaint is for UKI to deal with its claim in accordance with the remaining terms in the policy. UKI must also add interest to the settlement amount due to O at 8% per annum simple from the date it rejected O's claim to the date of payment. This is to compensate O for being without funds it should have had.*

UKI must also pay O £250 in compensation for inconvenience. UKI must pay the compensation within 28 days of the date on which we tell it O accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

* UKI must tell O if it has made a deduction for tax. And, if it has, how much it's taken off. It must also provide a tax deduction certificate for O if asked to do so. This will allow O to reclaim the tax from His Majesty's Revenue & Customs (HMRC) if appropriate.

My final decision

I uphold O's complaint about U K Insurance Limited and order it to do what I've set out above in the 'Putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask O to accept or

reject my decision before 7 November 2024.

Robert Short
Ombudsman