

The complaint

Mrs M complains that Covea Insurance plc unfairly voided her landlord insurance policy as it said she hadn't given a fair presentation of the risk at inception.

What happened

In March 2022, Mr P – on Mrs M's behalf – took out a landlord insurance policy for a property Mrs M lets out. The policy was taken out online through a broker.

In June 2022, Mrs M received a letter from the neighbour in the flat below threatening to take legal action in the small claims court due to a series of leaks which had caused damage. The letter set out a series of incidents starting in September 2021, before the policy inception.

Mrs M informed Covea of the letter. It said Mrs M hadn't disclosed the series of leaks when she took out the policy, which is a failure to give a fair presentation of the risk. It voided her policy on the basis that she'd made a deliberate misrepresentation and it retained the policy premiums.

Mrs M raised a complaint. Covea maintained its position but said that it would change the voidance from deliberate to reckless as a gesture of goodwill. Mrs M remained unhappy, so she brought her complaint to our service.

Our Investigator didn't uphold the complaint. He said under the applicable law, Mrs M had a duty to disclose everything she knows or ought to know about the insured risk. As she knew there had been leaks but didn't disclose them, it was fair for Covea to take the action it did.

As Mrs M didn't agree, the complaint was passed to me to decide. And I issued the following provisional decision.

My provisional decision

This was a commercial policy. Under the relevant law (the Insurance Act 2015) Mrs M had a duty to make a fair presentation of the risk. This means Mrs M – or Mr P on her behalf – had to disclose either:

- everything they knew, or ought to have known, that would influence the judgment of an insurer in deciding whether to insure the risk and on what terms; or
- enough information to put an insurer on notice that it needs to make further enquiries about potentially material circumstances.

But Mrs M took out her policy on the broker's website which gave her set questions to answer, leading her to think this was the things they wanted to know about. Covea says these questions were answered incorrectly, so I've thought about whether the answers given were reasonable.

The first question said:

My property is in a good state of repair. This means:

- *it is structurally sound*
- *there is no evidence of rot, damp, or infestation*
- *there is no faulty wiring or plumbing*
- *there is no damage to the roof or chimney*

Mrs M answered "I agree". Covea says that in light of the incidents of damage occurring prior to the start of the policy, plumbing was clearly an issue and faults were being investigated. So it says she should've answered "I disagree".

I don't agree. Whilst there had been leaks at the property, the remedies to these had been re-sealing the bath and tightening the stopcock. This doesn't suggest there was faulty plumbing, and Covea hasn't provided any evidence to suggest that it was. And these were 'one-off' minor issues that appeared to have all been resolved when the policy inceptioned which is supported by the timeline in the neighbour's letter which says that on 21 February 2022 the water leak had stopped and the next incident reported was May 2022.

The second question said:

I'm not aware of anything that could cause a future claim or compensation request.

Mrs M answered "I agree". I don't think this answer was unreasonable. Mrs M was under the impression the cause of the leaks had been fixed and she had no reason to think there could be a future claim. She hadn't paid any compensation to the neighbour, nor had she been asked to, as the damage was limited to some water staining after the walls had dried.

It's important to point out that Mrs M was taking out a landlord's insurance policy to cover her for loss of rent; she'd opted not to include buildings cover. So when answering these questions, she wasn't thinking about claims for damage to the property.

The third question said:

"In the time that I've owned the property, there haven't been any claims at the property. There also haven't been any events at the property that I could have claimed for, but either chose not to, or didn't have insurance in place at the time."

Again, Mrs M answered "I agree". Covea says Mrs M had claims for escape of water. But as I've explained, Mrs M wasn't taking out a buildings insurance policy. So when thinking about whether they'd been any claims, Mrs M was thinking about claims for loss of rent.

Even if she had thought about the leaks, I don't think her answer would've changed. I say that because she didn't make any claims for the leaks, and she couldn't have made a claim for them either; they were for minor repairs arising from general maintenance that wouldn't have been covered under a buildings insurance policy. If Covea wanted to know about these types of issues, it should've asked a more specific question about that.

From the information I've seen, I'm satisfied Mrs M took reasonable care to answer the questions on the basis of which she understood them and in the context of the policy she was taking out. Whilst the Insurance Act 2015 does require her to disclose everything, I've taken into account that Mrs M was asked specific questions here and she's not a commercial entity, she owns one rental property, so she only knew to answer what she was being asked. On a fair and reasonable basis, I'm not persuaded she's misrepresented the risk here.

So it follows that I don't think Covea has acted fairly in voiding Mrs M's policy. It's for this reason that I'm inclined to uphold the complaint and direct Covea to reinstate the policy and pay compensation for the inconvenience Mrs M has been caused as a result of this.

Responses to my provisional decision

Neither Mrs M nor Covea responded to my provisional 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.

As neither party had any further submissions for my consideration, I see no reason to deviate from the outcome explained in my provisional decision.

My final decision

For the reasons I've explained, I uphold this complaint and direct Covea Insurance plc to:

- reinstate Mrs M's landlord insurance policy;
- remove any record of voidance against Mrs M
- pay Mrs M compensation of £250

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 21 June 2024.

Sheryl Sibley
Ombudsman