DRN-4831523

The complaint

Mr B and Miss B have complained that Accredited Insurance (Europe) Limited ('Accredited') voided their home insurance policy. For the avoidance of doubt, the term 'Accredited' includes its agents and representatives for the purposes of this decision letter.

What happened

Mr B and Miss B renewed their home insurance policy with Accredited in December 2023 but Accredited voided it in January 2024 and returned the premium, as it had become aware of a county court judgment relating to Miss B's son who lived with them. It said that if it had been aware at the outset, it wouldn't have renewed the policy. Accredited however agreed that the misrepresentation was careless and not deliberate. Mr B and Miss B complained to Accredited as they said they weren't aware of the judgment at the time, however Accredited didn't change its stance and Mr B and Miss B referred their complaint to this service.

Whilst the relevant investigator initially declined to uphold Mr B and Miss B's complaint, following further consideration of the parties' submissions, she ultimately upheld the complaint. She didn't think that the actions taken by Accredited were in line with Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA') as it was her view that Mr B and Miss B had taken reasonable care in providing their responses. She concluded that Accredited hadn't acted in a fair and reasonable manner in voiding their policy. In conclusion, the investigator recommended that Accredited remove any records of voiding the policy, reinstate the policy and collect any premium due and also pay compensation of £200 for the distress and inconvenience caused to Mr B and Miss B.

Accredited didn't agree with the investigator's view and the matter has been referred to me to make a final decision in my role as 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.

I've also considered the submissions of the parties, which are summarised as follows. Turning firstly to Mr B and Miss B's submissions, they explained that they reported a claim to Accredited in January 2024 as they had water leaking through their kitchen ceiling. The next day, they received a letter from Accredited being a 'Notice of Voidance' as Miss B's son had a county court judgment against him being £160 in value.

Mr B and Miss B questioned the relative who said that he was unaware of the historical judgement, and the relative had been happy to ask for advice regarding financial issues. They had no reason to believe anything was amiss regarding any outstanding debt that had not been repaid as they didn't open his post. The judgment was also issued with incorrect spelling and Miss B's son hadn't opened letters as he thought they were 'spam' letters.

Mr B and Miss B said they first took the policy out in 2017 and since then, had not completed

any kind of proposal form with Accredited, and they only had to declare if something had changed, otherwise it was 'auto renewed'. They said that they had no reason to know about the 2020 judgment which they said related to an item not asked for b Miss B's son, so on renewal, there was no indication that anything had changed. The son had no financial interest in the property. Mr B and Miss B felt that this, along with the value of the judgment, were mitigating factors. They were acutely aware of the implications of a voided policy on other insurance policies they held. As a precaution, they'd cancelled their car insurance and moved to another insurer at extra cost.

Mr B and Miss B also felt that Accredited had given them inconsistent responses. Miss B's son had moved in and out a couple of times over a period of two years and Accredited had said that it would have allowed the motor policy to continue. They added that the claim they'd made in January 2024 would always have been withdrawn once they found out the extent and likely cause of damage being wear and tear. Financially, Mr B and Miss B said that it cost over £450 to obtain replacement home and motor policies and thought that they'd have to declare the voided policy in future, and this would greatly reduce the number of available insurers and the increase costs. They said, *'We have basically been labelled as being fraudulent where we were only providing a fair representation of the risk based on the information we had in our possession...'*

Mr B and Miss B said the only way that they could find out about the judgment without relying on an individual to disclose this, would be to run periodic credit checks, to ensure that everything was disclosed, and they queried whether this was reasonable. Finally, they considered that Accredited's conduct had been contrary to FCA principles and regulations which had referred to the 'consumer duty' to deliver good outcomes to customers. They felt that there was a stigma in having had a policy voided and added 'hassle' of finding insurers to cover them, as well as concern about future claims. In conclusion, Mr B and Miss B wanted Accredited to rescind its decision to void the policy.

I now turn to Accredited's submissions regarding this matter. It said that when Mr B and Miss B had made their claim in January 2024, they'd confirmed the presence of an additional occupant in the home and during validation checks, it was noted that the occupant had a county court judgment registered against his name. During the policy renewal process, there was a requirement to check application details and inform Accredited if anything was incorrect, and unfortunately, Mr B and Miss B hadn't disclosed the county court judgment. With confirmation of cover, they'd also been asked to review the policy documentation which detailed the importance of providing accurate information, along with the potential consequences of not doing so.

Accredited considered that there had been a significant amount of correspondence sent regarding the judgment which was issued personally to Miss B's son at the home address. As such, it considered that Mr B and Miss B would have been aware of it and the information should have been declared in line with the questions which had been asked. Accredited said it was the policyholder's duty to ensure that all information provided was accurate for all residents of the property and to verify that answers were correct.

Accredited then referred to its underwriting acceptance criteria for what it was able to cover. Any change to the information provided could impact its decision. It said that if Mr B and Miss B had declared that a resident of the property had been served with judgment in the last five years when completing the application and at subsequent renewals, Accredited wouldn't have provided a quotation. It said that the decision to void the policy was therefore in line with the policy wording. It accepted however that this was a careless error and not a deliberate or fraudulent misrepresentation, *'Therefore, while [Accredited] intend to void the home insurance policy, they will issue a refund of any premium paid in support of the policy.'*

Accredited confirmed that it Miss B's son hadn't been living in the property at the time of renewal, Mr B and Miss B would have needed to notify it of the change in circumstances when the relative moved back into the property. This was made clear in the policy wording under the section detailing the changes in circumstances that it needed to know about. Accredited considered that not opening correspondence wasn't a mistake, but rather, an active choice for which the recipient must take responsibility, and this wasn't a valid reason for being unaware of the judgment.

Accredited said that the question asked was clear, *'Within the last 5 years, have you or any of the residents been served with a County Court Judgement, …whether paid or not?'.* Accredited referred to CIDRA which stated that if incorrect information was provided, then the insurer could remedy this in line with what they would have done had the information been known originally. It confirmed that insurers didn't ask about the value of judgment, nor the potential value of a claim as this wasn't relevant to the question asked. It said it couldn't now ignore the information that had come to light during validation checks and said that Accredited must treat all customers fairly and equally and take the same action that they would with any other customer.

As to Mr B and Miss B's comments that Accredited had shown inconsistency as to its approach to home insurance and motor insurance, it confirmed that this would be looked at as a mid-term change to circumstances with regard to the motor policy. When the motor insurance policy commenced, no misrepresentation had taken place. It confirmed that these were two separate products which had different underwriting criteria. As for the argument that since the judgment had been issued in 2020 and so policies should have been voided in previous years, Accredited did offer to do so and to issue a full refund of premiums. At the time of Accredited issuing its final response letter however, Mr B and Miss B hadn't confirmed that they wanted to go ahead to void policies back to 2020.

Accredited didn't think that Mr B and Miss B had given a fair representation of the risk and hadn't provided sufficient evidence that they weren't aware of the judgment. It said that they had a duty as policy holders to ensure that information was correct, and that included asking occupants of the property relevant questions about their circumstances. Accredited added that Mr B and Miss B had provided no evidence to prove that they'd taken steps to ensure that the information provided was correct. It had made its decision based on the evidence that was provided by the policyholders and not the likelihood of a hypothetical situation.

It said that at no point had Mr B and Miss B provided evidence that they took reasonable care to answer the relevant question and to ask Miss B for the information. If Mr B and Miss B had asked the question of their relative, but lacked trust in the answer, then putting questions and taking responses at face value wouldn't be enough. It considered that reasonable care would then have involved searching the insolvency register for example. Accredited didn't accept that the relative didn't open a single letter because of a minor spelling mistake in his name. It said that on the balance of probabilities, a reasonable person would open at least one, *'even if merely out of curiosity, regardless of whether they thought it was some sort of scam.'*

Finally, Accredited referenced a previous decision not to uphold a complaint issued by the Financial Ombudsman Service, which it considered to be similar to the current case. The Ombudsman in that case referenced significant correspondence being sent in respect of judgments. It said that this should have been disclosed, especially due to the time of issue of the judgment and the policy inception date.

I've carefully considered all of the above evidence and submissions. The starting point is the relevant law regarding misrepresentation. This is found in the Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA'). It says that it's the duty of the

consumer to take reasonable care not to make a misrepresentation to the insurer. If a consumer fails to take care in giving or confirming information, the insurer then has certain remedies where there is a 'qualifying misrepresentation'. For it to be a qualifying misrepresentation, the insurer must show it would have offered the policy on different terms or indeed not at all if the consumer hadn't made the misrepresentation. The remedy available to the insurer under CIDRA depends on whether any qualifying misrepresentation was deliberate, reckless, or careless. If the misrepresentation was careless, then to avoid the policy, the insurer must show it wouldn't have offered the policy at all if it wasn't for the misrepresentation.

Accredited says that it wouldn't have offered the policy at all if it had been aware at the outset that an occupant of Mr B and Miss B's home had a county court judgment registered against him. It readily acknowledged that in this case the misrepresentation by Mr B and Miss B was careless, rather than being reckless or deliberate.

I consider that Mr B and Miss B have been candid throughout in their submissions and provision of answers to the relevant investigator. In response to the question of whether they'd specifically asked Miss B's son whether he had any county court judgment registered against him, they responded that they hadn't done so. They said that he would come to Mr B and Miss B about any financial issues, however the first that Mr B and Miss B knew about the judgment for £160 was when Accredited disclosed it. They said that when they were asked by Accredited on renewal whether anything had changed, they had no reason to believe there was a judgment in place or that anything had indeed changed. In any event they believed that Miss B's son hadn't known about the judgment.

I agree with Accredited to the extent that the customer must make reasonable enquiries to ensure that the information they give when setting up a policy is correct and to declare any changes at the time of policy renewal. I also agree that it would generally be expected for the customer to make reasonable enquires of the occupants of a property to ensure that relevant responses were entirely accurate.

On the specific facts of this case however, I can't say that Mr B and Miss B acted unreasonably in providing their responses in December 2023. I'm persuaded that in this case, Miss B's son didn't know or appreciate that there was a county court judgment registered against him. It was for a relatively small amount of money for a product which he said he hadn't asked for and as letters had been received with an error in the name, so he'd understood it to be a scam.

I'm also persuaded on the evidence that Miss B's son did readily discuss any financial issues with Mr B and Miss B and reasonably thought that he would bring a matter such as a county court judgment to their attention. I'm satisfied that Mr B and Miss B applied for renewal in the firm belief that no-one in their household had a judgment against them. If there had been a large volume of correspondence regarding the debt, I'm satisfied that this didn't amount to Mr B and Miss B carelessly ignoring the judgment. An incorrectly spelt name on seemingly official correspondence could reasonably lead to a conclusion that this was 'spam' mail.

I've looked at the previous case to which Accredited has referred, and where it was decided that given the combined factors of the amount of correspondence involved with issuing a county court judgment and the short timeframe between the judgment being registered and the policy being taken out, the policyholder ought to have been aware that a judgment had been registered. Each case must be considered on its own merits and facts. In Mr B and Miss B's case, the timescales were at least three years between judgment and the date of its discovery in January 2024. I'm satisfied that the facts and evidence fairly lead to a different conclusion here.

In the circumstances, I can't say that Mr B and Miss B carelessly misrepresented the facts regarding this 2020 judgment or that it was unreasonable for them to have stated that there was no change of circumstances in December 2023. I'm therefore satisfied that no qualifying misrepresentation has occurred in this case.

I conclude that Accredited didn't act in a fair and reasonable manner in voiding Mr B and Miss B's policy. I agree with the relevant investigator's ultimate view in this case that Accredited should now place Mr B and Miss M back in the position they would have been prior to this incident. Accredited should therefore formally remove the reference to avoidance of the policy and pay compensation of £200 for the distress and inconvenience caused.

My final decision

For the reasons given above, I uphold Mr B and Miss B's complaint and I require Accredited Insurance (Europe) Ltd to do the following in response to their complaint:

- To formally remove the avoidance of Mr B and Miss B's policy from the relevant records and also provide a letter to Mr B and Miss B confirming this fact
- Pay compensation in the sum of £200 to Mr B and Miss B for the distress and inconvenience they've experienced, within 28 days of his acceptance of the final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Miss B to accept or reject my decision before 5 September 2024.

Claire Jones
Ombudsman