

The complaint

Mrs Y is a sole trader, trading as V. She complains U K Insurance Limited cancelled her 'business from home' insurance policy in August 2023.

What happened

Mrs Y held insurance with UKI for a number of years which most recently renewed in February 2023. In August that year she contacted UKI to let it know of a forthcoming change of address. UKI initially said the policy would need to be moved to a new system but after further discussion with Mrs Y it said her business now involved 'drop shipping' (where a factory stores her design and, after an order is placed, the factory makes the item and ships it to the customer). And that wasn't something it could cover on its new system.

It gave her seven days notice of cancellation. Mrs Y asked if that could be extended but UKI wasn't prepared to do so. However, it accepted a number of promised call backs hadn't taken place and paid Mrs Y £60 in recognition of that.

Our investigator said UKI had entered into a 12 month insurance contract and he didn't think it was fair of it to cancel the contract mid-term because of a change in its own risk appetite. And he thought in any case, given Mrs Y's health issues and the fact she was moving house, UKI should have offered a longer cancellation period. He thought UKI should reinstate cover from the point it was cancelled until the date Mrs Y took out alternative cover and pay her a further £500 to recognise the distress and inconvenience that caused.

UKI didn't agree. It said it wasn't able to reinstate a cancelled policy and didn't have one that would meet Mrs Y's needs. It thought it had evidenced the risk was outside of what it was prepared to accept and the policy terms allowed it to cancel with seven days notice. It said at the point of sale Mrs Y wasn't carrying out the same work she was now doing and provided a copy of the 'Statement of Fact' which Mrs Y had been sent in 2018. It said the cancellation was due to a change in risk from the contract which it had initially agreed (and which Mrs Y made it aware of when she called in August 2023). It didn't agree further compensation should be paid to Mrs Y.

Mrs Y accepted what our investigator said but noted UKI still hadn't provided a pro rata refund of the amount she paid for her policy. And, while accepting the £500 compensation, she noted that didn't cover the losses her business had suffered during the period it was uninsured. So I need to reach a final 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.

From what UKI has said its position appears to be that there had been a change in the nature of Mrs Y's business which she told it about when she contacted it in August 2023. And that wasn't a risk it was prepared to accept which is why it cancelled her policy.

I don't think that correctly reflects the sequence of events here. The reason Mrs Y contacted UKI in August 2023 was to let it know about a change of address. She wasn't calling to tell it about a change in the work she was doing. I appreciate that change may only have become apparent to UKI during that call but Mrs Y has provided information which satisfies me that her business had been carrying out 'drop shipping' since at least October 2020.

So I don't the issue here is whether UKI was entitled to cancel the policy following Mrs Y making a mid term adjustment to it. The question is whether this change is something she should have told UKI about either when her 'drop shipping' work started or at the subsequent policy renewal. And, if she had, whether UKI would have accepted the risk at that point.

As this was a commercial policy the relevant law is the Insurance Act 2015. However, in some limited circumstances we might nevertheless think it was fair to apply the tests set out in the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) when considering a commercial complaint. That could be where the complainant was a sole trader and their circumstances meant their situation was more analogous to that of a consumer. I think that might well apply here but I don't think that's something I need to determine because I don't think whichever test is used makes a difference to the outcome of this complaint.

The Insurance Act says when taking out the policy (and at renewal) Mrs Y had a duty to make a fair presentation of risk. So she had to disclose:

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

Mrs Y told us her business had evolved over the years and expanded into new areas which now included 'drop shipping'. She believes the factories she was dealing with would have their own insurance to cover any issues with the products supplied. But I don't think that would prevent a claim being made against her. So this did potentially increase the risk to UKI. I think applying the Insurance Act means this is something Mrs Y should have told UKI about at or before the February 2021 renewal of her policy. Mrs Y believes she did so though can't recall exactly when this was.

But I don't think that's the key issue here. Even if she didn't tell UKI about the 'drop shipping' in order for that to be a 'qualifying breach' (which means an insurer can exercise one of the remedies the Act contains) UKI would need to show it would have done something different if there had been a fair presentation of risk. I don't think it's evidenced that. In its final response to Mrs Y it said 'drop shipping' was not something it could insure and "*this is not something we could insure on our old system either*". But we then asked UKI for information from its underwriting team on when it stopped offering cover for this.

In response UKI said "*I can confirm upon the introduction of our new system, we reassessed our underwriting criteria. Certain changes have been made to our acceptance and decline criteria in line with our risk tolerance levels*". Given that was in response to a specific question about when the change took place I place more weight on that response. And that information clearly suggests the change to underwriting criteria (which meant 'drop shipping' wasn't covered) only took place after the introduction of UKI's new system. That must have been after the February 2023 policy renewal (because otherwise Mrs Y's policy would already have been on the new system).

So I don't think UKI has shown any information Mrs Y provided about her involvement with 'drop shipping' at a previous renewal would have caused it to act differently at that time. That means there hasn't been a 'qualifying breach' in this case. As a result I think UKI was wrong to cancel Mrs Y's policy when she contacted it in August 2023 (it could have declined to offer cover from the policy renewal the following February).

I also think it would have been reasonable in any case for UKI to offer a longer cancellation period than the seven days it gave. I appreciate that's the timeframe set out in the policy terms. But the reason for Mrs Y's contact was because she was moving house. UKI was clearly aware of that. And I understand she first contacted UKI to let it know about this some weeks before that move was due to take place. UKI didn't then call her back as it should have done meaning she was only told about the cancellation a few days before her move to a different part of the country. I think in the circumstances it would have been reasonable for UKI to allow a longer cancellation period. In any event, for the reasons I've already explained, I don't think it acted correctly in cancelling the policy at all.

Putting things right

I've gone on to think about the impact of the cancellation on Mrs Y. I think that this did cause her a significant amount of stress at what was already a difficult time. It meant she had to find alternative cover at short notice while also dealing with the challenges of her house move. Mrs Y has told us about a number of chronic illnesses which affect her which are triggered by stress and flared up at this time causing pain, numbness and sleeplessness over a sustained period.

I recognise moving house in itself would be stressful so I can't conclude that's solely as a result of what UKI got wrong. But I think it's reasonable to say it will have played a part in it. I appreciate Mrs Y believes her business has also suffered losses as a result but I haven't seen clear evidence to evidence those losses. I also think it would be difficult to separate them from those that occurred as a result of her decision to temporarily shut her business following her move. Nevertheless, I do accept there may be some lost opportunity here. Taking all of that into account I think the £500 our investigator recommended is appropriate to recognise the impact on Mrs Y of what UKI got wrong.

I also think she shouldn't be without insurance from the point UKI cancelled her policy until she arranged alternative cover. UKI says it can't reinstate a cancelled policy. It will therefore need to consider any claims which relate to that period against the terms and conditions of the policy that renewed in February 2023. And if UKI hasn't already done so I think it's fair that it should refund the premium Mrs Y paid for that policy on a pro-rata basis from the date she took out alternative cover which Mrs Y says was 3 October 2023.

My final decision

I've decided to uphold this complaint. U K Insurance Limited will need to put things right by doing what I've said in this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs Y to accept or reject my decision before 28 August 2024.

James Park
Ombudsman