

The complaint

Mr B and Mrs Z have complained that Covea Insurance plc (Covea) unfairly avoided their home insurance policy and refused to pay a claim.

What happened

Mr B and Mrs Z took out a home insurance policy over the phone through a broker. The insurer for this policy wasn't Covea. When the policy renewed, the insurer changed to Covea. The cover was based on the information Mr B and Mrs Z provided to the broker when the previous policy had been taken out.

Mr B and Mrs Z's home was burgled. They contacted Covea to make a claim for damage to their property and for items that had been stolen, including jewellery.

Covea said Mr B and Mrs Z had provided incomplete information in respect of the true value of their high risk/ valuables sum insured at the property. It said it would not have offered cover if it had been aware of the total value of the high-risk items, as it exceeded its maximum limit of £30,000 for high-risk property. It said this entitled it to void the policy from inception and not to pay the claim.

When Mr B and Mrs Z brought their complaint to this Service, our Investigator thought it should be upheld. She said, based on his explanation of how he had understood the policy terms, Mr B genuinely thought £30,000 was enough to cover his high-risk items and that this was the maximum amount that would be paid. She also didn't think it was fair for Covea to regard some of the items as a set. She said Covea should reinstate the policy and assess the claim in line with the remaining terms and conditions of the policy. If it settled the claim, she said Covea was only liable up to the policy limits.

Covea doesn't agree with the investigator and has asked for an ombudsman's decision. It said it didn't think items should be treated as individual items rather than as a set.

I issued my provisional decision on 8 July 2024. In my provisional decision, I explained the reasons why I was planning to uphold the complaint. I said:

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 has to 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 a number of 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.

I should note that Covea doesn't seem to have referred to CIDRA when it looked at the claim and complaint. But, Covea thinks Mr B and Mrs Z provided incomplete information in respect of the true value of their high-risk items. I note Covea also doesn't seem to have assessed whether Mr B and Mrs Z took reasonable care, as described in CIDRA. Covea appears to have decided it was a qualifying misrepresentation. But, it also hasn't said whether it was deliberate or reckless, or careless. The remedy available to an insurer, such as whether it can void the policy, depends on which of these it thinks the qualifying misrepresentation is. So, I think Covea has used an unclear process to decide it was reasonable to void the policy and not to settle the claim.

I'm also aware it was a broker, not Covea, who asked Mr B and Mrs Z the questions when they first took out the policy in 2020. Covea also wasn't the insurer at that time. It was only when the policy renewed in 2021 that Covea became the insurer. I asked Covea to provide more information about the questions asked when Mr B and Mrs Z took out the policy. Covea told this Service that because the policy was sold by a broker it couldn't confirm the exact questions asked and that it was struggling to ascertain significant information to support its position. However, it described the cover provided by the policy, including the restrictions on cover as described in the Insurance Product Information Document (IPID) and in the policy schedule.

I would normally look at whether an insurer asked a clear question when a policy was taken out and how the policyholder answered. But, Covea has said it doesn't know what was asked by the broker or how Mr B and Mrs Z answered. It also didn't void the policy on the basis of what was asked and how Mr B and Mrs Z then answered.

When Covea voided the policy, it seemed mainly to rely on the Statement of Insurance. The voidance letter said:

"The Statement of Insurance provided to you at inception of the policy confirmed the following under the Important Information section:-

If you become aware that information you have given us is inaccurate, you must inform us as soon as practicable. Your Schedule and Statement of Insurance show the cover you have selected. The choices you have made will depend on your personal circumstances. You should check your Schedule and Statement of Insurance carefully to ensure you have the level of cover you require."

But, Covea hasn't shown the information in the schedule was inaccurate or that Mr B and Mrs Z should have taken action on reading it. Mr B and Mrs Z also appeared to be satisfied that the policy provided the level of cover they required.

Based on what I've currently seen, I don't think I can fairly say Mr B and Mrs Z didn't take reasonable care when the insurer changed to Covea at renewal. Covea can't show what was asked, that the questions were clear or that Mr B and Mrs Z didn't give reasonable answers. I don't think Covea trying to rely on information contained in the renewal documents is enough to show Mr B and Mrs Z should have reasonably acted differently or contacted Covea about the cover offered. So, I'm not currently satisfied Mr B and Mrs Z failed to take reasonable care or that it was therefore fair for Covea to void the policy on the basis of misrepresentation.

As a result, I currently intend to uphold this complaint and to say Covea should reinstate the policy and remove any references to its voidance from internal and external databases. In terms of the claim itself, because Covea voided the policy it didn't fully look at the claim, so I think it should have the opportunity to do so.

I've also thought about compensation. I think Covea dealt with the claim and complaint poorly. I don't currently think Covea fairly looked at the circumstances that led to it saying Mr B and Mrs Z made a misrepresentation and then voiding the policy. I think the reasons it provided to Mr B and Mrs Z were confusing and poorly explained and that this will have led them to feel they were unfairly treated by Covea. So, I currently intend to say Covea should pay Mr B and Mrs Z £400 compensation to recognise the impact on them of how it handled the claim and complaint.

I asked both parties to send me any more information or evidence they wanted me to look at by 5 August 2024.

Mr B and Mrs Z confirmed they had received the decision but didn't provide any comments.

Covea didn't agree with my decision. In summary, it said:

- My decision seemed to allow for a customer to not have to take responsibility to ensure they have adequate cover. It appeared that any customer can choose any amount and then justify this by saying they thought it was enough cover.
- This potentially set a precedent that any underinsured customer can just advise they thought they had enough cover and the insurer would have to just accept that as a mistake and settle any claims presented, even if cover wouldn't have been offered if the correct amount had been provided.
- It believed the risk was fundamentally different to what was presented to it. The value at risk was greater than its acceptance criteria. For that reason, it would decline to offer a quotation where these limits were exceeded and highlight the importance of ensuring the information provided by a customer was correct.
- It provided a screenshot of the explanation of high-risk property, which it said noted this limit must not be exceeded.
- Within the statement of insurance, it also advised that where cover was insufficient that it may treat the policy as if it never existed.
- It said that if the customer believed the amount chosen was enough, shouldn't they have to provide evidence to show what they based this calculation on and that they had taken reasonable care when determining cover is sufficient.

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 uphold this complaint and for the reasons given in my provisional decision. As part of that I've considered Covea's comments, but these don't change my view about what is a fair and reasonable outcome for this complaint.

Although Covea has put emphasis on the responsibility it says was on Mr B and Mrs Z, Covea hasn't addressed the points I raised in my provisional decision. In my decision, I explained the issues I'd identified with the process Covea followed and the gaps in the information it provided. Covea also told this Service it was struggling to ascertain significant information to support its position.

In my view, Covea still hasn't shown it followed a clear process. It also hasn't provided evidence of what Mr B and Mrs Z were asked, shown that the questions were clear or that Mr B and Mrs Z didn't give reasonable answers to those questions. I remain of the view that Covea trying to rely on information contained in the renewal documents isn't enough to show

Mr B and Mrs Z should have reasonably acted differently or contacted Covea about the cover offered.

I understand the concerns raised by Covea and that it thinks my decision will set a precedent. However, my decision is based on the circumstances of this individual complaint. I've considered the policy wording, the policy limits and the details of the claim Mr B and Mrs Z presented. I've also looked at what happened in the context of CIDRA, which is the relevant law. I remain of the view that I'm not satisfied Covea has shown Mr B and Mrs Z failed to take reasonable care or that it was therefore fair for Covea to void the policy on the basis of misrepresentation.

My final decision

For the reasons I've given above and in my provisional decision, my final decision is that this complaint is upheld. I require Covea Insurance plc to:

- Reinstatement the policy.
- Remove any references to the policy's voidance from internal and external databases.
- Reconsider the claim based on the remaining terms and conditions.
- Pay £400 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs Z to accept or reject my decision before 6 September 2024.

Louise O'Sullivan
Ombudsman