

complaint

Mrs and Mr N have complained that Lets Compare Limited gave incorrect information to their insurer when arranging their home insurance policy.

background

Mrs and Mr N say Lets Compare contacted them and offered to find them a new home insurance policy. Mrs N says she told them at this point that their property had previously suffered from subsidence and had a flat roof.

On renewal Lets Compare contacted Mrs N and suggested changing to a different insurer. Mrs N says Lets Compare told her the premium would be lower, so she agreed. Lets Compare arranged cover and the policy was later renewed several times.

When Mrs and Mr N made a claim for storm damage to their roof, the insurer voided their policy (treated it as though it had never been in force) and refunded the premium. It said it was doing this because it hadn't been told about the previous subsidence claim and the flat roof. As the policy was treated as though it had never existed, the insurer also declined their claim. Mrs and Mr N thought this was Lets Compare's fault for not passing the correct information to their insurer.

Mrs and Mr N complained to this service. Lets Compare said that it was Mrs and Mr N's fault for not checking their policy documents. It also denied being told about the subsidence claim and the flat roof. Our adjudicator thought the complaint should be upheld. We haven't received Lets Compare's business file, so our adjudicator reached his decision mainly on the information provided by Mrs N.

Lets Compare didn't accept that it had done anything wrong but was prepared to offer £150 to settle the complaint.

my provisional findings

The relevant excerpt from my provisional decision is set out below.

"Insurers use the information provided to them by someone looking to take out a policy at the application stage to decide whether to offer insurance cover and on what terms. If inaccurate or incomplete information was provided, and that induced the insurer into offering insurance on terms it otherwise wouldn't have offered, the insurer is sometimes able to void the policy. In effect, this is what's happened here. The question for me to decide is whether before the policy was taken out or renewed, Mrs and Mr N gave incomplete and/or inaccurate information to Lets Compare. However we still haven't received Lets Compare's file and it hasn't provided any evidence in support of its position.

Mrs N says Lets Compare phoned her to obtain her permission to change insurer. She says they didn't ask her for any information about her property at this stage. For this policy there were nine questions which policyholders should be asked, including one about whether their property is of standard construction (which the insurer says means not more than 25% of the roof being flat) and whether the property is in an area prone to subsidence or showing any signs of damage by subsidence, landslip or heave.

I decide cases based on the evidence presented by both parties. In this type of complaint, at the very least I expect the broker to provide evidence from the sale of the policy (such as a

recording or notes of a telephone conversation) in order to show what questions the policyholder was asked and what answers they gave.

As Lets Compare has provided neither, I can't conclude that it's shown that it has treated Mrs and Mr N fairly in the way it arranged their insurance.

I also appreciate Lets Compare's point that neither Mrs N nor Mr N corrected the information despite it being set out in policy documentation that was sent to them over a number of years. I accept that policyholders have a duty to check documentation that is sent to them; however, to put all the blame on Mrs and Mr N for the position they found themselves in conveniently ignores the fact that Lets Compare, as the professional insurance intermediary, had a duty to pass information to the insurer that it knew was correct.

Mrs and Mr N say that a friend repaired the worst of the damage to the roof for £50 but they couldn't afford to have the whole of the damage to the roof repaired. The insurer refunded their premium of £1013.67 to them.

Our adjudicator suggested that to resolve the matter Lets Compare should offer a cash settlement or arrange for a loss adjuster (at its own expense) to negotiate a settlement in line with the terms of the policy offered by the insurer which had voided their policy. I agree with this in principle; however, I think the premium that's been refunded needs to be taken into account (because if the insurer had dealt with the claim the premium wouldn't have been refunded). I also think that the cash settlement is more likely to be acceptable to Mrs and Mr N if they provide estimates to Lets Compare for the cost of repairing the storm damage to their roof but in case the parties can't reach agreement, I think Mrs and Mr N should be able to insist that Lets Compare use a loss adjuster.

Our adjudicator also recommended that Lets Compare should request that any records on internal or external databases that might have been noted against Mrs and Mr N (for non-disclosure or policy cancellation) be removed. I think it's fair that Lets Compare should do that.

I also think it's fair that Lets Compare should pay Mrs and Mr N £150 to compensate them for the trouble and upset it's caused them.

Lastly policyholders often find that their premiums greatly increase as a result of having a policy voided. If Mrs and Mr N can provide evidence that they've had to pay more for their premiums since the voidance than they otherwise would have, I think they should be reimbursed for this additional cost together with interest."

my findings

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 responded to my provisional decision, I see no reason to change it.

my final decision

I uphold this complaint and require Lets Compare Limited to:

- offer a cash settlement for the cost of repairing the storm damage to Mrs and Mr N's roof based on the £50 already paid by them and an estimate provided by Mrs and Mr N for the further repairs or (if either party prefers) appoint an appropriately qualified loss adjuster at its own expense to negotiate settlement in line with the terms of the voided policy but in each case less the premium that was refunded by Mrs and Mr N's previous insurer;
- request the removal of the voidance of Mrs and Mr N's policy from any internal and external databases maintained by or on behalf of insurers;
- pay Mrs and Mr N compensation of £150 for the trouble and upset it's caused them; and
- if Mrs and Mr N have had to pay extra for insurance cover as a result of declaring that they'd had a policy voided, upon proof of such extra cost reimburse them the extra cost plus interest. Interest will be at the rate of 8% simple a year (less tax if properly deductible) from the date each increased amount was paid until settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr N to accept or reject my decision before 11 April 2016.

Elizabeth Grant
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