

## **complaint**

Mr R's home insurance policy was voided (treated as though it had never existed) by Allianz Insurance plc because he did not tell it about a county court judgement. Mr R says that he was not aware of the county court judgement at the time the policy was taken out and did not know that he was required to tell Allianz about it.

## **background**

Mr R took out a policy with Allianz through an insurance broker. A few years earlier a county court judgement had been made against him.

After Mr R made a claim for theft, Allianz discovered the county court judgement and voided his policy because he had failed to tell it everything he should have. Allianz did not refund Mr R's premiums because of the costs it had incurred in investigating his claim.

Since Mr R was unhappy with that response, he complained to this service.

Our adjudicator considered that the complaint should be upheld in part. In his view Allianz had acted fairly and reasonably in voiding the policy but should have refunded the premiums with interest.

Allianz accepted his decision.

As Mr R disagreed, the matter has been referred to me for a final decision.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Mr R was asked a number of questions in a telephone call when taking out the policy. I have not been provided with a copy of the call recording but have seen a transcript of the relevant question. An adviser asked: "Anyone been served or about to be served ccj or been or about to be declared bankrupt?"

Mr R responded: "No."

When the policy was renewed, the renewal document asked Mr R to notify his broker if he had ever been served with a county court judgement. Mr R did not take that opportunity to correct the error.

I think that it is very unlikely that Mr R would not have been aware of his county court judgement and also that he would not think it was something of importance for an insurer to know about. As a result it is clear to me that Mr R did not take reasonable care in answering the insurer's questions. When we look at a case like this, we generally say that the insurer should base its approach on what it would have done if Mr R had taken reasonable care and provided the correct information. Sometimes the insurer would have offered cover on different terms or not offered cover at all. In this case Allianz has been able to show that if it had been aware of the county court judgement, in accordance with its general acceptance criteria it would not have offered insurance.

Because of that failure to provide information Allianz is entitled to treat the policy as if it had never existed and in my view it is reasonable for it to do so in the light of its acceptance criteria. Where a policy is cancelled from the start, I think it is fair for the insurer to refund to the consumer the premiums which it has been paid.

**my final decision**

My final decision is that I uphold this complaint in part. Allianz Insurance plc should refund to Mr R the premiums he has paid from the start of the policy with interest at 8% simple per annum if it has not already done so.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr R to accept or reject my decision before 12 January 2015.

Elizabeth Grant  
**ombudsman**