

complaint

Mrs K complains St Andrew's Insurance Plc (St Andrew's) has unfairly cancelled her buildings insurance and refused to pay her claim.

background

I've attached my first provisional decision from November 2015 and my second one from January 2016. In the second one I set out why I didn't intend to uphold the complaint. And I invited Mrs K and St Andrew's to provide any further information they'd like me to look at before making a final decision. St Andrew's didn't provide anything. Mrs K disagreed with my decision and sent some more information.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. This includes the latest information provided by Mrs K. Having done this, I'm not upholding the complaint.

Mrs K's said again that she gave the correct information about the property at the original sale. In my second provisional decision I accepted she probably did. But this complaint is about St Andrew's cancelling the policy and refusing the claim, not the original sale. I've had to think about what Mrs K probably said about the property at the original sale to decide if it was fair of St Andrew's to do this. But the sale itself has been looked at by this service in a different complaint.

Mrs K says the business use of the commercial unit changed about two weeks after the 2011 renewal. So it was still a clerical business at renewal. But because of the short time period I think Mrs K probably knew, at the time of the renewal, that the business type was going to change. So she should have told St Andrew's.

Mrs K's also said that if the renewal document wasn't in her name she wouldn't have opened it. I think Mrs K might have misunderstood my second provisional decision. I said St Andrew's had provided a sample of a renewal letter. And this was in a different customer's name. St Andrew's said Mrs K would have been sent a similar one. It would have been sent to Mrs K in her name, not that of another customer. And St Andrew's records show renewal documents were sent. So I think Mrs K probably did receive them.

So I still think Mrs K should have told St Andrew's about the change of business use at the 2011 renewal. And if she had it wouldn't have renewed the policy. So St Andrew's acted reasonably when it cancelled the policy back to that date and refused to pay the claim.

my final decision

For the reasons given above, I'm not upholding Mrs K's complaint.

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

Daniel Martin
ombudsman

2nd PROVISIONAL DECISION

complaint

Mrs K complains St Andrew's Insurance Plc (St Andrew's) has unfairly cancelled her buildings insurance and refused to pay her claim.

background

I've attached my 1st provisional decision from November 2015. In it I set out why I intended to uphold the complaint.

I invited Mrs K and St Andrew's to provide any further information they'd like me to look at before making a final decision. Mrs K agreed with my provisional decision. St Andrew's disagreed and provided some new information.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having looked at the new information from St Andrew's, I now don't intend to uphold the complaint.

the original sale of the policy

St Andrew's initially said it had no way of knowing if it was told the property was two separate flats with a commercial unit. It now says Mrs K told it at the original sale the property was used for tenants and clerical business. She didn't say it was separate flats and a commercial unit. But it hasn't shown how it now knows this. So I still think Mrs K probably did give correct information about the property at the sale. I don't know why St Andrew's arranged a single residential policy for her. But I don't think this was her fault.

should Mrs K have told St Andrew's about a change of business type?

In my first provisional I said St Andrew's hadn't shown what information had been sent to Mrs K at renewal. So it hadn't shown she didn't take reasonable care. St Andrew's still hasn't provided Mrs K's renewal documents. But it's now provided renewal documents sent to a different customer in August 2011. It says Mrs K would have been sent a similar one. I think it's likely she was sent something similar for her November 2011 renewal. And I've seen records that show renewal documents were sent.

Mrs K's son told St Andrew's the type of business in the commercial unit changed around November 2011. St Andrew's says Mrs K should have told it this had happened. And if she had, it wouldn't have renewed the cover.

The renewal cover letter says on the first page, in three places, to contact St Andrew's if circumstances or needs have changed. I accept there was already business taking place in the commercial unit. But the business type changed significantly. It was originally a broadly clerical office type business. It would probably have a few customers visit per day and a couple of staff. And it would have a small amount of equipment.

But the business changed to one that couldn't be described as clerical or office based. Instead it provided a range of services on the premises. This all required physical contact with its customers. About 50 visited each day and it had six or seven staff. It needed quite a bit of costly equipment to provide its services.

Mrs K says, at the original sale, she told St Andrew's the type of business. It said this was acceptable. So she should have known the type of business might make a difference. And the change was

significant, so I think she should have at least checked whether St Andrew's might want to know about it.

Mrs K's policy document gave further information about changes of circumstances. If she'd looked at it, she'd have seen that St Andrew's wanted to know about business or trade that wasn't clerical. The old business could be broadly described as clerical. But the new business certainly couldn't. So she would have seen that St Andrew's wanted to know about it. And if she didn't have the policy document, she should have called St Andrew's to discuss the change of business.

So I now don't think Mrs K took reasonable care at her 2011 renewal. She should have contacted St Andrew's about the change of business. When we think someone didn't take reasonable care we look at what the insurer would have done if it'd been told the correct information.

what would St Andrew's have done if Mrs K had told it about the change?

I've seen St Andrew's acceptance guidelines for the type of policy Mrs K had. It wouldn't offer the policy for a property where the new type of business was taking place. And after being told about the change of business I think it probably would have asked Mrs K some more questions about the property. Then it would have realised the wrong type of cover had been arranged. And it wouldn't have renewed the policy.

So I now think St Andrew's acted fairly when it cancelled Mrs K's policy back to its November 2011 renewal date. And I don't think it needs to consider any claims for damage or loss that happened after then.

Mrs K's son says basic buildings cover is still in place. So the claim should be paid. But St Andrew's cancelled the full policy from November 2011. I haven't seen anything that makes me think buildings cover has been left in place. And St Andrew's hasn't cancelled the cover that was in place before this date.

my provisional decision

For the reasons given above, I don't intend to uphold Mrs K's complaint.

Daniel Martin
ombudsman

1st PROVISIONAL DECISION

complaint

Mrs K complains St Andrew's Insurance Plc (St Andrew's) has unfairly cancelled her buildings insurance and refused to pay her claim.

background

Mrs K made a claim for water damage to her property. But St Andrew's cancelled her policy back to its latest renewal date. It refused to pay the claim.

St Andrew's hasn't been very clear in its explanations. But it seems to be saying it thought the property was a single private residence with tenants, in which some clerical business took place. By this I think it means clerical home working type activity. But it found out it was two separate flats and that the clerical business was actually a commercial shop unit. As it didn't insure this type of property it cancelled the policy.

It says this was a change in circumstances Mrs K hadn't told it about. It also says Mrs K didn't let it know, at renewal, that it held incorrect information about the property.

Mrs K says she explained the property was two flats and a commercial unit when she originally took the policy out. St Andrew's says its records showed the property as tenanted and that some clerical business took place in it. But it has no way of knowing if it was told the property was two flats and a commercial unit.

Mrs K's previously said the policy was mis-sold. This was looked at by this service in a different complaint. So this decision doesn't consider that. It only looks at whether it was fair of St Andrew's to cancel the policy back to its latest renewal date.

Our adjudicator didn't think the complaint should be upheld. He said Mrs K hadn't told St Andrew's the full details of the business taking place in the property. And he was satisfied it wouldn't have provided cover if it'd known. So he thought St Andrew's acted fairly when it cancelled Mrs K's insurance and refused to pay the claim. Mrs K didn't agree so the complaint's been passed to me.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done this, I intend to uphold it.

I think Mrs K took reasonable care when she first took out the policy. And St Andrew's hasn't shown that she didn't take reasonable care at renewal. So it needs to ignore the information it found out about the property and reinstate the policy as it originally was.

the original sale of the policy

I don't know for certain what was asked and said at the original sale. St Andrew's doesn't have a record of it. Neither it, nor Mrs K, provided any documentation from the sale. Mrs K says she told the branch that the property was two flats and a commercial unit. She says she told it that one flat was tenanted, with her son and her living in the other. And she says she told it he ran a business from the commercial unit. St Andrew's says it has no way of knowing if it was told this.

On balance, I think Mrs K probably did give the correct information about the property. St Andrew's doesn't deny she did. And its records show the policy was set up for a property with tenants. And in which clerical business took place. This broadly fits the information Mrs K says she gave at the sale.

The business Mrs K's son ran could loosely be described as clerical. So I don't think Mrs K gave incorrect information about the property. And she took reasonable care to give St Andrew's the correct information during the original sale.

should Mrs K have corrected St Andrew's information at renewal?

St Andrew's says the policy was cancelled due to a change of risk. It hasn't explained very clearly what it thinks the change of risk was. But it seems to be saying that the property changed from a single flat with some homeworking to two flats and a commercial unit. But, as far as I can see, the property was always two flats and a commercial unit. I've already said I think Mrs K explained this at the original sale.

St Andrew's says Mrs K didn't tell it at renewal that it held incorrect information about the property. But Mrs K thought St Andrew's had the correct information about the property. So I can see why she might not feel the need to do so.

And St Andrew's hasn't provided any renewal documents. So it hasn't shown what questions were asked of Mrs K at renewal. And it hasn't shown what incorrect information she failed to correct. So it hasn't shown that she didn't take reasonable care at renewal.

St Andrew's says her policy documents said she needed to tell it about change in circumstances. But this is found on page eight of a long document. So I don't think this was enough to make her aware. And importantly, as far as she was concerned, there hadn't been a change in circumstances.

So St Andrew's hasn't shown that Mrs K failed to take reasonable care. Because of this I don't think it was entitled to cancel her policy.

putting things right

I think Mrs K's took reasonable care to provide the correct information. This means St Andrew's will need to ignore the information it thinks is new to it. It must reinstate Mrs K's policy as it originally was and consider her claim.

Mrs K had to find new cover after St Andrew's cancelled her policy. She may have paid more for this because she disclosed the cancellation. If she did, and can provide evidence from her insurer, St Andrew's should pay her the difference.

This has caused Mrs K some distress and inconvenience. She's had to go to a fair bit of effort and trouble to deal with the problem. And having her insurance unfairly cancelled has caused her some stress. So St Andrew's should pay her £200 to compensate for this.

my provisional decision

For the reasons given above, I intend to uphold Mrs K's complaint. I will require St Andrew's Insurance Plc to:

- reinstate Mrs K's policy from the date it was cancelled;
- remove any record of the cancellation from internal and external databases;
- consider Mrs K's claim in line with the terms and conditions of the policy;
- pay Mrs K £200 for the distress and inconvenience this has caused her and;

- pay Mrs K any extra she's paid for new insurance because of the policy cancellation. Mrs K will need to provide evidence of this. Interest, at 8% simple, should be paid from the date of each additional premium was incurred until payment*.

*HM Revenue & Customs requires St Andrew's Insurance Plc to take off tax from this interest. It must give Mrs K a certificate showing how much tax it's taken off if she asks for one.

Daniel Martin
ombudsman