

complaint

This complaint has been brought by Mr A and Mr A. For simplicity, I will refer to the Mr A that was joined to the policy at a later date as Mr B. So throughout my decision I will refer to the complainants as Mr A and Mr B.

Mr A and Mr B are unhappy that UK Insurance Limited (Direct Line) has declined their claim and unfairly voided (treated as if it never existed) their insurance.

background

Mr A and Mr B made a claim under their home insurance policy. Direct Line declined the claim and voided the policy as it said new information came to light. It found that there are two separate county court judgements (CCJ's). One against Mr A, and the other against Mr B - and said that had it known about them, it would have never offered the insurance to them.

Mr A and Mr B said they did not disclose this information in the application process because they weren't aware of the CCJ's until Direct Line brought them to their attention. Mr A and Mr B complained to Direct Line as they thought they were treated unfairly and asked it to pay the claim and re-instate the policy.

Direct Line responded to say that it wouldn't do this and stood by its decision. Unhappy with this, Mr A and Mr B brought their complaint to this service.

Our investigator looked into the matter and didn't think that the complaint should be upheld. He thought that Direct Line was entitled to cancel the policy and that it acted fairly in doing so. Mr A and Mr B didn't agree with this view and asked for an ombudsman to make a decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I'm sorry to disappoint Mr A and Mr B but I have reached the same conclusion as the investigator, for broadly the same reasons.

When deciding if Direct Line has acted fairly in voiding this policy there are three questions I need to consider:

1. Were the questions Direct Line asked about County Court Judgements clear?
2. Did Mr A and Mr B fail to take reasonable care and provide incorrect information?
3. Can Direct Line provide evidence that if the correct information had been given it wouldn't have offered insurance to Mr A and Mr B?

An insurer will ask questions to find out information material to the risk that is being proposed. Insurers are entitled to ask these questions and consumers are expected to answer honestly and carefully and to disclose information asked of them.

Mr A applied for the insurance on line. One of the statements Mr A was asked to confirm was:

'Neither you, or any director or partner of the business or its subsidiary companies either personally or in any business capacity...

'Has been the subject of a County Court Judgement and/or ever been cited in any unsatisfied court judgements (or the Scottish equivalent) within the last 10 years'.

Mr A answered 'yes' to the statement confirming that he, and any partners, hadn't been the subject of CCJ's. When Mr A called Direct Line to accept the quote and make payment, he was asked a similar question and answered on behalf of himself and Mr B: 'no we haven't'—indicating that neither he, nor Mr B, has been subject to any CCJ's.

I think the statement and the question asked on the phone is clear and unambiguous.

Direct Line later found that both Mr A and Mr B had CCJ's against their names. I note that Mr A and Mr B have said that they are unaware of these and understand that they are being disputed. Mr A also said he thought the question was asking whether they were subject to any insurance claims on the property. Whilst this is an unfortunate misunderstanding, I do think the question was appropriately clear in that it was asking about CCJ's.

Considering that they were recorded close to the time that the policy was taken out, I don't think Direct Line has been unreasonable in saying that Mr A and Mr B should've disclosed the CCJ's to it at the time.

What I need to look at here is whether Direct Line has been fair in voiding the policy because of them. Direct Line has provided part of its underwriting guide which shows its acceptance criteria. Having reviewed this document, I don't think that Direct Line would've offered the policy to Mr A or Mr B, had it known about the CCJ's.

I understand that Mr A and Mr B have said they were unaware of the CCJ's. But having considered everything, I don't uphold this complaint. Overall, I don't think Direct Line has acted unreasonably when declining the claim and voiding the policy.

my final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Mr B to accept or reject my decision before 7 August 2017.

Camilla Finnigan
ombudsman