

## **complaint**

Mr C complains that Zenith Insurance plc cancelled his motorcycle insurance policy from the start (voided it) and declined his claim for the theft of his bike. He wants the claim investigated and the policy declared non-void.

## **background**

Mr C's bike was stolen and he made a claim. But Zenith said the bike's model as stated on the registration certificate (V5) was different to what Mr C had told it when he took out the policy. It said it wouldn't have offered cover if it had known the correct, imported, model. So it voided the policy and declined the claim.

Our investigator recommended that the complaint should be upheld. She didn't think Mr C had been asked specific questions about the bike's model. She thought he'd taken reasonable care to answer the questions he was asked. So she thought Zenith had been wrong to void the policy and decline the claim. To put things right, she thought it should consider the claim, remove records of the voidance and give Mr C a letter about this, and pay him £100 for his trouble and upset.

Zenith replied that Mr C was asked for the bike's make and model and whether it was a UK model. It couldn't see why he'd assumed it was made in UK rather than imported as this wasn't stated on the V5.

## **my findings**

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

Zenith said it had voided the policy because Mr C didn't disclose that the bike had been first registered abroad and then imported and because he'd given the incorrect make and model.

Where a complaint arises from non-disclosure of information important to an insurer, we look to see that it asked a clear question when the policy was taken out. We check that the information given would affect whether a policy was offered. And we check whether the informant has acted carelessly or deliberately in making the non-disclosure.

Zenith has provided its underwriting evidence that cover wouldn't be provided if it had known that the bike was an imported make.

I've listened to the call where Mr C bought his policy. He asked for cover for his bike, giving its common name, and he was asked for the model, and year of first registration. He answered the last question correctly after checking the V5. He wasn't asked if this was in the UK or abroad.

The V5 also stated the make of the bike. But I couldn't hear that Mr C was asked for this or whether the bike was made in the UK. I think if he'd been asked these specific questions, then he would have referred to the V5 and the correct information would have been provided. So I don't think Zenith asked Mr C clear questions about the make or origin of his bike.

If it had, then Zenith may well have declined cover. But, as it was, Mr C went on to renew his policy twice. The renewal notice states the common name for the make of Mr C's bike. I can't see that Mr C intended to mislead Zenith about his bike's make. I think his non-disclosure was innocent.

So I think Zenith didn't ask Mr C clear questions about his bike's make and origin. I think he took reasonable care to ask the questions he was asked. So I don't think it's fair that Zenith has declined his claim for the theft of his bike.

This experience has caused Mr C worry and concern. He rode the bike for three years but fortunately this was without incident. But I think Zenith should compensate him for unfairly voiding his policy. I think the investigator's suggestion of £100 is fair and reasonable. It's in keeping with what I'd recommend in similar circumstances.

### **my final decision**

My final decision is that I uphold this complaint. I require Zenith Insurance plc to do the following:

1. Consider Mr C's claim under his policy, and reduce any payment by any premiums already refunded.
2. Remove record of the voidance from any internal or external databases and also provide Mr C with a letter stating that the policy was voided in error.
3. Pay Mr C £100 compensation for the stress and inconvenience this has caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 February 2018.

Phillip Berechree  
**ombudsman**