

HM Treasury – Insurance Contracts Law Draft Bill

response from the Financial Ombudsman Service

2 July 2014

The Financial Ombudsman Service welcomes the opportunity to respond to the current consultation.

about the Financial Ombudsman Service

The ombudsman service was set up by Parliament to sort out individual complaints that consumers and financial businesses aren't able to resolve themselves. It is an independent service for settling complaints fairly, reasonably, quickly and informally, which is free to consumers. The business must be given the chance to look into a problem first – and they have eight weeks to consider it. If the business does not respond within eight weeks, or does not respond to the consumer's satisfaction, the consumer can go to the ombudsman service.

In considering what is fair and reasonable, we are required to take into account the relevant law and regulations, rules and guidance as well as the provision of relevant documents and good practice in the industry.

our response

We understand HM Treasury are keen to identify whether there is a broad consensus of support before determining whether this draft Bill is suitable for consideration under the procedure for Law Commission Bills. We support consideration of this draft Bill under the procedure for Law Commission Bills.

(1) Do you agree that reform in this area is desirable?

The Financial Ombudsman Service believes reform in this area could lead to a more balanced approach to insurance contracts and a fairer outcome for consumers. We strongly supported the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) and we believe this draft Bill is the natural follow-up to CIDRA. It covers areas that did not fall within CIDRA but that are of equal importance.

(2) Do you agree with the general approach of the draft Bill, as explained by the Explanatory Notes? Yes/No

The draft Bill is an attempt to eliminate any bias towards either party to an insurance contract and focus on what can reasonably be expected from both the insurer and the insured. It recognises that while the insured should provide all the information available, the insurer

may also need to ask questions for example, to draw the full picture before accepting the risk. As such we welcome the general approach of the draft Bill.

(3) Do you agree with the policy reflected in clause 11 (Terms relevant to particular descriptions of loss)? Yes/No

Yes, we believe clause 11 moves the law forward in a way more consistent with fairness and general contract law principles

(4) Do you agree with the policy reflected in clause 14 (Implied term about payment)? Yes/No

Yes, we believe clause 14 moves the law forward in a way more consistent with fairness and general contract law principles

We would be happy to provide further insight if HM Treasury deemed this useful in their evaluation of the Bill.

Melissa Collett, Senior Ombudsman

✉ Financial Ombudsman Service, South Quay Plaza, 183 Marsh Wall, London, E14 9SR

✉ melissa.collett@financial-ombudsman.org.uk ☎ 020 7964 1294

Kriss Nathanail, Policy Adviser

✉ Financial Ombudsman Service, South Quay Plaza, 183 Marsh Wall, London, E14 9SR

✉ kristel.nathanail@financial-ombudsman.org.uk ☎ 020 3487 4868