DRN-4893783

The complaint

Miss M complains about Accredited Insurance (Europe) Ltd's handling of a claim made under her home insurance policy and their subsequent decision to void her policy and decline the claim.

What happened

The background to this complaint is complex but it's well known to both parties, so I'll provide only a brief summary here.

Miss M has home insurance underwritten by Accredited which covers her property and its contents. She bought the policy on 1 February 2023. And she made a claim after a fire at the property on 21 February 2023.

Accredited accepted the claim, inspected the property and engaged contractors to clean the property and clear the contents.

In short, Miss M wasn't happy with the way the claim was being handled and made a (previous) complaint to Accredited.

They issued their final response to that complaint on 4 May 2023. Miss M wasn't happy with the response, so she brought her complaint to this service.

We resolved that complaint in June 2023. We upheld it, asked Accredited to take certain steps as regards the claim and asked them to pay Miss M £1,000 in compensation for her trouble and upset. It's not for me to re-visit that complaint in this decision.

Miss M made a further complaint to Accredited and received their final response in September 2023. Again, she was unhappy with Accredited's response and so brought the complaint to us.

In summary, the complaint was about Accredited allegedly:

- underestimating cleaning and restoration costs associated with the claim;
- being unwilling to pay for alternative accommodation at a reasonable rate and/or for long enough;
- failing to deal properly with the contents element of the claim;
- failing to pay for utility costs in full;
- delaying payments to Miss M;
- refusing to replace electrical goods damaged in the fire; and
- refusing to pay for Miss M to appoint an independent surveyor to assess the damage and set out the restoration works required.

Whilst our investigator was looking into Miss M's complaint, Miss M was informed by Accredited (in November 2023) that information had come to light which suggested she had been using the property for business purposes (renting part of it out) both before and since the inception of the policy.

They told Miss M that because she hadn't declared the business use when she bought the policy, they were voiding the policy. This meant that they wouldn't be settling her claim and wouldn't pay any further alternative accommodation costs.

Miss M wasn't happy with this and asked us to look into it, alongside the complaint points she'd made in September 2023.

Our investigator's view was that the complaint should be upheld. And she thought Accredited should: reinstate the policy; remove any record of the policy voidance; re-consider the claim; and pay Miss M £400 in compensation for her trouble and upset.

In terms of the progress of the claim, she felt Accredited should:

- carry out a joint site visit (with Miss M and/or her representatives);
- agree a full schedule of works for reinstatement at the property;
- assess the contents part of the claim (including looking at contents which had been left at the property);
- and pay for further (reasonable) alternative accommodation costs, taking into account the fact that the dispute over the voidance of the claim had caused delays.

Neither Miss M nor Accredited agreed with our investigator's view and so the case was referred to me for a final decision.

We'd received quite a lot of correspondence from both parties since our investigator issued her view on the case. Some of it bringing new information and/or arguments to our attention.

So, whilst I agreed with our investigator that the complaint should be upheld - and I agreed broadly on what needs to happen next – I decided to issue a provisional decision.

This allowed me to set out very clearly my reasoning and grounds for the proposed outcome. And it gave both parties the chance to comment on that reasoning and/or to provide any further information or evidence they thought I should consider.

My provisional decision

In my provisional decision I said:

> "I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.
>
> *Accredited's decision to void the policy*
>
> Accredited say that they voided Miss M's policy because she didn't disclose, when she bought the policy, that her property was used for business purposes.
>
> They say that the evidence shows that, after she bought the policy, the property was used for business purposes. They say a self-contained annex within the property was rented out through Airbnb and/or similar letting websites.
>
> Accredited say that if they had known that, when Miss M applied for the policy, they wouldn't have offered cover on any terms. And, on that basis, they are entitled to void the policy and refuse to deal with the claim.
>
> The relevant legislation which applies in this case is the Consumer Insurance (Disclosure and Representations) Act (CIDRA) 2012. Given that Miss M is

represented in this matter by her own loss assessor, I'm sure neither party needs me to explain the provisions of CIDRA in great detail.

Suffice to say that Accredited would be entitled to void Miss M's policy if:

> (a) when she bought the policy, she'd told Accredited something which was inaccurate; and
> (b) she'd done so either carelessly or recklessly / deliberately; and
> (c) Accredited would not have offered cover on any terms had they known the true facts.

In respect of point (c) above, Accredited have provided us with copies of their underwriting criteria for the type of policy Miss M bought.

I won't disclose too much detail here because it's commercially sensitive. But I can say that it's absolutely and unequivocally clear that if Accredited had known the true position as regards the property, they wouldn't have offered cover on any terms.

That's understandable – insurers will assume that there's a higher risk of a claim if a property has paying guests visiting regularly.

Things are less clear when I consider points (a) and (b) above. I can see that from Accredited's point of view, the information provided by Miss M was inaccurate.

They've provided evidence which strongly suggests that the annex was in fact let out after the policy was bought. I know Miss M disputes this, but the property is advertised on lettings websites after she bought the policy. There are reviews - on one of those websites at least - which appear on the face of it to relate to guest visits in the period after inception of the policy. And contractors working for Accredited (after the claim was made, obviously) say Miss M asked them to ensure that visitors had clear access to the annex.

So, on balance, I'm satisfied it's more likely than not that the annex was in fact used for business purposes after inception of the policy. That being the case, from Accredited's point of view, there is a clear misrepresentation at inception and, therefore, they are entitled to void the policy.

However, there's one very important fact here which I think has been lost in the sometimes rather difficult debate about the use of the annex (or not) for paying guests.

Before she bought the policy, when she bought the policy, and indeed ever since, Miss M has had the annex insured entirely separately, with a different underwriter.

She's told us - and she's told Accredited, I believe – that when she bought the policy, her intention was to obtain cover for the part of her property that she and her family used as their home. It was not her intention to obtain cover, at the same time and through the same policy, for the annex.

Given that she has had separate cover for the annex throughout, that's entirely credible. I have no reason at all to doubt that Miss M's intention when she bought the policy was exactly as she describes it.

Miss M bought her policy through a comparison website, which then referred her through to Accredited (or their agents) to finalise the deal. She was asked various questions about the cover she wished to purchase and about her circumstances.

Most of the relevant questions were asked through the comparison website - and the answers were then automatically used to pre-populate Accredited's application forms and policy documents.

Accredited are entitled to take business from comparison sites in that way, but they can't then avoid or deny responsibility for the customer's experience through the journey as a whole. If Accredited want to know certain things from their potential customer before they agree to provide cover, they need to ensure those questions are asked very clearly at some point in the customer's journey.

If we look in detail at the customer journey Miss M took, the questions she was asked refer to either her "property", her "house" and/or her "home". These terms appear to be used somewhat interchangeably - and they aren't defined in any meaningful way.

From Miss M's point of view, bearing in mind her purpose in purchasing the policy (to cover only her family home, and not the annex which was insured separately), the information she provided was entirely accurate. She didn't use the family home part of the property for business purposes (other than clerical, which she declared, and which is not in dispute).

I can't see anywhere in that customer journey where Miss M was either told or advised that it wasn't appropriate for her to insure the two parts of the property (the family home and the annex) separately. Nor can I see anywhere in that journey where Accredited - or their agents or the comparison website – told or advised Miss M that it would be important for them to know whether paying guests were staying within the wider property as a whole.

If Accredited disagree with this and believe that Miss M couldn't reasonably have thought – throughout the purchase process – that she was insuring only the family home part of the property and that the questions pertained to that part of the building only, then they can point out where in the customer journey Miss M was supposed to be disabused of that point of view.

In the absence of any compelling evidence to the contrary being provided in response to this provisional decision then, I'm minded to conclude that there was no qualifying misrepresentation (under CIDRA) by Miss M when she bought the policy. And so, Accredited are not entitled to void the policy and refuse to deal with the claim.

I fully understand that Miss M later denied that the annex itself had been used for business purposes during the lifetime of the policy. Accredited or their agents appear to have asked that question quite specifically at a number of points since the claim was made. And, frankly, the evidence appears to contradict this (as I've already mentioned above).

Miss M appears to have been, at the very least, guarded or evasive in what she's disclosed to Accredited or their agents since she made the claim.

That might be because she feared that Accredited would use information she provided to refuse her claim on what she might regard as a "technicality". Or it may

be because, throughout this period, Miss M has been vulnerable and living in quite difficult and, as she herself puts it, somewhat “chaotic” circumstances.

Either way, whilst I don’t think it’s hugely to Miss M’s credit – or to her advisors’ credit – that she has sometimes appeared not to provide complete information when asked, I don’t think it’s a decisive issue in this case.

As I’ve said above, the key thing in terms of any potential misrepresentation under CIDRA is what Miss M had in mind when she bought the policy (not afterwards). And I’m satisfied that when she bought the policy, Miss M intended to purchase cover for the family part of the home only and answered the questions she was asked in that light. And that means there was no qualifying misrepresentation here.

I’m aware that our investigator thought Accredited couldn’t void the policy because they’d affirmed the contract by accepting Miss M’s claim and working to settle it for a prolonged period of time – in full knowledge of the fact that there was a self-contained annex at the property.

In my view, it’s debatable whether that is the case. Accredited say they only became aware of the (potential) business use of the annex when their contractors told them (around November 2023) that Miss M had asked them to make sure access to the annex was clear for guests. And so, initially – when the claim was made – they had no reason to suspect business use and so weren’t affirming the contract in full knowledge of the circumstances.

I can certainly see Accredited’s argument. Especially since it’s also supported by the fact that they asked Miss M at various points after the claim was made whether any part of the property was used for business purposes, and she said no (see above).

On the other hand, it’s certainly arguable that when they first inspected the property after the claim, Accredited would or should have known that the entirely self-contained annex might be rented out.

In other words, it’s fair to ask what Accredited’s loss adjusters / surveyors thought the annex was for, if not for renting out. And if they were aware of the self-contained annex, then they could be said to have proceeded with the claim – and affirmed the contract – in full knowledge of the circumstances.

On balance, I’d be minded to say that given the amount of time that had passed with the claim being accepted and worked, after Accredited or their agents first inspected the property, it would be unfair for Accredited to suddenly turn round and void the policy on the basis that a completely self-contained annex – that they already knew about from the outset – might have been used for business purposes.

The fact that Miss M was led to believe for so long that Accredited were settling the claim certainly has potentially serious consequences for Miss M. As well as creating a legitimate expectation, which was then eventually disappointed, it meant that Miss M didn’t look to other means of restoring the property to its former condition from the outset.

However, given my opinion that there is no misrepresentation here (as set out above), Accredited wouldn’t be entitled to void the policy whether or not they affirmed the contract when they accepted the claim and worked on it for so long. So, the question of whether the contract was affirmed or not is likely to be redundant in any case.

In summary, unless any additional information or evidence changes my mind, I'm minded to conclude that Miss M bought a policy intending to cover only the part of the building that she and her family lived in.

She then suffered a loss and damage – to that part of the property - as a result of an insured event. She'd paid her premiums and is entitled to believe that Accredited will fulfil their contractual obligations by settling her claim. She did not make a misrepresentation when she bought the policy, given her intentions and understanding at the time, and so Accredited are not entitled to void the policy.

Assuming nothing changes my mind when the parties respond to this provisional decision, I'll be instructing Accredited to reinstate the policy, remove any record of the voidance and work with Miss M and her representatives to conclude the settlement of the claim as soon as practically possible (see below).

Issues with the claim itself

The alternative accommodation

There have been a number of issues throughout this claim relating to the alternative accommodation provided for Miss M and her family. Some of those were resolved by the previous complaint to our service (mentioned above). And I'm not going to go into great detail here – both parties know where things stand at present.

I also understand that a mutually acceptable rate for the alternative accommodation payments was eventually agreed between the parties.

In short, the policy terms allow for alternative accommodation up to a total cost of £100,000 (a limit that's unlikely to be reached in this case) and for a maximum of 12 months. Accredited are only required to pay those costs whilst the property is uninhabitable.

The fire which made the property uninhabitable occurred on 21 February 2023. Accredited were paying for alternative accommodation – or should have been paying for it – up to November 2023, when they made their decision to void the policy.

So, Miss M has had around eight months of alternative accommodation paid for. Under the policy terms, there are around four months left of the time allowed under the policy terms to complete the settlement of the claim.

Given that I'm upholding this complaint, I'm satisfied it would be unfair for Accredited to refuse to pay for alternative accommodation for the period of time when the voidance of the policy has been disputed – from November 2023 until this complaint is resolved by our service and Accredited re-start work on the claim.

I assume Miss M has paid for accommodation herself during that time and Accredited will now need to reimburse her, on receipt of proof of payments etc.

After that, Miss M appears to be entitled under the policy terms to another four months of alternative accommodation. I hope the house will be inhabitable again by then. If it isn't for any reason, I'd expect Accredited to review the position and consider extending the alternative accommodation payments.

Of course, that assumes that Miss M has done everything reasonably expected of her to assist in bringing this claim to a satisfactory conclusion as quickly as practically possible. If Miss M is responsible for any delays which take us beyond that four month period, I think Accredited would be entitled to withdraw the alternative accommodation payments from that point in time.

I should also make it clear that when the fire occurred, the property was without a kitchen due to refurbishment. I wouldn't expect Accredited to deem the house uninhabitable (and continue to pay for alternative accommodation) on the basis that the kitchen has not yet been fitted. In essence, they need to put that part of the house back in the state it was in before the fire occurred.

The reinstatement works and the surveyor(s) to be involved

As our investigator said, the main thing now is for Accredited and Miss M to agree a joint site visit, as soon as practically possible, after which a comprehensive schedule of works should be agreed.

I understand why Miss M has concerns about Accredited proposing a schedule of works. And I'm aware she wants Accredited to pay for an entirely independent surveyor to carry out the work on her behalf.

Accredited had a qualified surveyor lined up to carry out the inspection and propose a schedule of works. According to my understanding, that surveyor is not an Accredited in-house surveyor.

That particular surveyor may or may not still be available to carry out the work. But as long as Accredited appoint that surveyor or a similar alternative option, I'm not going to ask them to pay for a second surveyor to take instruction from Miss M.

If Miss M wants a second opinion, she can pay for one and I'd expect Accredited to take that opinion into account. But what Accredited proposed in terms of the surveyor to carry out the site visit and prepare the schedule of works was fair and reasonable, in my view. If Miss M is unhappy with the outcome once she's actually seen it, she'd be entitled to challenge it at that point.

The contents part of the claim

It's fair to say that there appears to have been some confusion about the contents damaged by the fire. And I'd say Accredited and/or their contractors have to take most of the blame for that.

When we resolved the previous complaint, we said that Miss M's clothing should be replaced. But it appears that may not have been fully dealt with as yet.

Other items taken into storage have now been returned to Miss M. But it appears some items are unaccounted for. It's not clear whether these were taken away, assessed as being beyond economical repair and disposed of, or whether they remain at the house in a pile of contents which has remained there since the fire.

Miss M has also raised concerns about electrical equipment which Accredited appear to have PAT-tested and assessed as being repairable / cleanable. In principle, Accredited are entitled to clean or repair items if that will return them to full functionality, but they will need to explain to Miss M their decisions on those items and deal with any remaining concerns she might have.

As part of the resumption of work on the claim, Accredited will now need to inspect the contents which remain at the house - and clarify whether anything has been disposed of by their contractors. And they then need to validate the claim and pay out a settlement to Miss M in accordance with the terms of the policy.

Utility costs

Miss M believes Accredited haven't fully paid her for utility costs incurred at the property since it's been uninhabitable. I'd expect Accredited to consider any further claims for these costs as they resume work on the claim as a whole, in line with the policy terms and assuming Miss M can demonstrate and evidence that those costs have been incurred.

Compensation

Miss M was awarded £1,000 in compensation when we resolved her previous complaint. That covered delays and poor service - and the distress and inconvenience caused to Miss M - up to June 2023.

Since then – and up to November 2023 – the claim was delayed by a series of discussions and disputes between Accredited and Miss M about the works to be carried out, amongst other things.

Whilst Miss M and her loss assessor are entitled to question how Accredited intended to deal with the restoration works and the claim more generally, it's difficult to conclude that their objections were always entirely justified and/or well-founded.

So, I can't reasonably conclude that Accredited were solely responsible for any extended periods of delay in the progress of the claim.

As I've said above, I'm minded to conclude that the decision to void the policy was ultimately not justified. And that decision – made in error by Accredited - will have caused Miss M significant distress and anxiety about the prospect that her home would not be restored.

I'm aware – and so were Accredited, who rightly and reasonably treated her as a vulnerable customer – that Miss M had experienced health issues as a result of the stress of living as a single parent in difficult circumstances before the claim.

These issues were of course exacerbated by the fire. And they were then made even worse by the news that Accredited were voiding the policy and stepping away from the claim.

Given the degree of distress and inconvenience the voidance decision caused Miss M – and the delay it's caused in the settlement of the claim - I agree with our investigator that Accredited should pay £400 to Miss M in compensation for her trouble and upset."

So, in summary, for the reasons given above, I said I was minded to require Accredited to:

- reinstate Miss M's policy;
- remove any reference to the voidance decision on their own or external databases;

- re-open their consideration of the claim as set out above (including scoping of reinstatement works, settling the contents element of the claim, consideration of utility costs, and alternative accommodation payments);
- pay Miss M £400 in compensation for her trouble and upset.

The responses to my provisional decision

Accredited responded to my provisional decision to say that they were minded to accept my findings.

However, they asked for clarification of my thinking on some of the evidence they'd already provided.

In short, they said they'd like to better understand how my thinking was impacted by the evidence that Miss M had carried out on-line searches, some weeks prior to taking out her policy, in which she declared that the property was in fact used for business purposes.

They also said that whilst they were willing to reinstate Miss M's policy (on payment of the premium) and reconsider the claim, they would expect that Miss M would look for a different policy more suitable to her needs in the short term, assuming she intended to rent out parts of the property in future.

They pointed out that I'd accepted that their underwriting criteria showed they had no appetite to insure properties which had on-going rentals through Airbnb or similar platforms. And they suggested reinstatement of the policy up to 1 August 2024.

Miss M responded to say that she accepted my provisional decision. However, she had some points to make about how the claim might be handled from here on in.

She said she hoped Accredited would pay for alternative accommodation that she'd agreed (at the same rent as previously) for six months from September 2024.

She also asked that Accredited pay her as soon as possible the outstanding monies for alternative accommodation and Council Tax on the rental property she left in June 2024, and for the contents part of her claim. She said she needs funds now to pay for a new policy from August 2024.

She pointed out that are still contents in the house which should be written off as beyond repair. And she said that Accredited haven't in fact PAT-tested any electrical appliances as yet (contrary to what I said in my provisional decision).

Finally, she had concerns about the Council Tax she's had to pay on her own property, which she says has been increased because of the property being unoccupied for so long.

What I've decided – and why

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

I've explained to Accredited my thinking on the on-line policy searches Miss M carried out. And Accredited have accepted my reasoning.

In short, my provisional outcome wasn't based on the idea that Miss M thought she had *no option* but to insure the family home and the annex separately.

My logic rested on the idea that she'd *chosen* to insure them separately and thought it was legitimate to do so, in the way that she had.

The fact that she'd carried out on-line searches several weeks before taking out the policy, in order to understand the cost of cover for the annex and the family home *together*, didn't contradict my thinking at all, in my opinion.

I accept – as does Miss M – that Accredited will not wish to provide cover in the longer term for the property, assuming the renting out of the annex will carry on – or resume at some point. It seems to me that ending the policy as of 1 August 2024 gives Miss M sufficient time to get cover elsewhere.

In her response to my provisional decision, Miss M raised a number of matters which weren't part of the original complaint to us, and which have arisen only recently.

I'd ask Miss M to understand that our role, when we receive a complaint, is to consider whether the respondent business has made any errors up to that point in time – and if so, what they need to do to put things right.

We aren't empowered or set up to "referee" on-going claims or to act as a surrogate claims-handler or loss adjuster for Accredited. Nor is it our role to pass information about on-going claims between the parties.

Now that Accredited have agreed to re-open the claim, I'm sure they will take into account – and respond appropriately to – any further information and/or requests Miss M sends to them. That would include any observations she has about the proposed PAT-testing, the remaining contents to be assessed and/or her alternative accommodation and Council Tax costs.

And of course, if Miss M is unhappy with the way the claim is handled from here on in, she can make a further complaint to Accredited – and then bring it to us if she's not satisfied with their response.

That said, I agree with Miss M that Accredited should pay any outstanding compensation for her trouble and upset – either from this complaint or the previous one (if that remains outstanding) – as soon as practically possible.

They should also pay Miss M - as soon as practically possible (and on receipt of any further information they need from Miss M) - any costs that have been previously agreed (such as at least some of the contents claim) and/or which are to be paid as a result of this decision (such as Miss M's incurred alternative accommodation costs, from the time Accredited ceased to pay them).

Accredited will no doubt be well aware that if Miss M does make another complaint about these particular matters – which is found to be justified and upheld – we would consider further compensation as part of our consideration of that complaint.

In conclusion, taking the responses from both parties fully into account - and having carefully considered again all of the information and evidence we have - I can't see any reason now to change my mind and/or depart from the findings set out in my provisional decision.

Putting things right

That being the case, I'm now going to require Accredited to take the steps set out in my provisional decision – and repeated in the section immediately below.

My final decision

For the reasons set out above and in my provisional decision, I uphold Miss M's complaint.

Accredited Insurance (Europe) Ltd must:

- reinstate Miss M's policy;
- remove any reference to the voidance decision on their own or external databases;
- re-open their consideration of the claim as set out above (including scoping of reinstatement works, settling the contents element of the claim, consideration of utility costs, and alternative accommodation payments);
- pay Miss M £400 in compensation for her trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 5 August 2024.

Neil Marshall
Ombudsman