

Ombudsman determination

CIFO Reference Number: 15-000083

Complainant: [The representative], representing [The complainant]

Respondent: [Company X]

It is the policy of the Channel Islands Financial Ombudsman (CIFO) not to name or identify complainants in any published documents. Any copy of this determination made available in any way to any person other than the complainant or the respondent must not include the identity of the complainant or any information that might reveal their identity.¹

The complaint relates to a motor insurance claim which was declined due to alleged misrepresentation of the complainant's true date of birth.

Background

On 8th April 2015 the [Company X's] online insurance platform logged a motorcycle insurance application at 16:48. The application was incomplete and contained the following information:

- A vehicle described as a [redacted for anonymisation purposes] motorcycle valued at £3000
- A date of birth of [redacted for anonymisation purposes]
- A postcode of [redacted for anonymisation purposes]

The application was not completed and the [Company X] system logged it as:

'the system has referred this policy so it will need to be underwritten'.

At 16:53 on the same date the [Company X] system logged a second application. The information was the same with the exception of the date of birth which was now [redacted for anonymisation purposes]. This application was completed in the name of the complainant, [redacted for anonymisation purposes].

[Company X] subsequently accepted the application and the complainant was provided with insurance through [Company X] with the insurer [redacted for anonymisation purposes].

The complainant was subsequently involved in a road accident and submitted a claim for damage to the insured vehicle. The insurer declined the claim, as they had discovered the date of birth on the original application was incorrect. The policy was declared void from inception for misrepresentation.

¹ Financial Services Ombudsman (Jersey) Law 2014 Article 16(11) and Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 Section 16(10)

[Company X] said the website had clear warnings that insurance would not be offered to applicants under the age of 17. In addition, they said that the application process includes numerous reminders to check the information that is inputted and provides opportunities to rectify any mistakes.

[Company X] noted that the application logged on 16:48 had the complainant's correct date of birth, which indicated that he was under 17 at the time and therefore ineligible for insurance. They said that this would have been rejected, with a message appearing to that effect.

As the date of birth provided on the second application suggested that the applicant was now eligible for insurance, [Company X] did not accept that it was a typographical error. Even if they did accept this argument, they said that there were multiple opportunities to rectify it.

The complainant denied making the original application at 16:48, and noted that it did not include a name and therefore could not be linked to him.

The complainant reaffirmed that the date of birth was an innocent mistake, and blamed the method by which you input the information on the [Company X] online platform, which he said has now changed.

The complainant rejected the screenshot evidence provided by [Company X] which showed the age warnings displayed on the website, and said that the website did not include any warnings at the time of the application and must therefore have been changed since then.

The case handler reviewed the evidence provided by each party. They noted that the screenshots provided by [Company X] were 'timestamped' near the date of the application and the case handler considered that the same warnings would likely have been visible at the time.

The case handler visited the website and submitted a test application, confirming that the warnings claimed to be in place by [Company X] were present. On the balance of probabilities, the case handler did not consider that the website would have changed substantially from the date of the original application.

The case handler considered that the similarities between the two applications suggested that, on the balance of probabilities, they were both made by the complainant, despite the former not including the complainant's name.

The case handler was satisfied that [Company X] had made the complainant reasonably aware that applicants under the age of 17 would not be eligible for insurance, and there was sufficient opportunity for any errors in the application to be amended. In addition, the case handler was not satisfied that the date of birth was merely a typographical error and therefore did not consider that the insurer had acted unreasonably.

The complainant did not agree with the case handler's conclusion, and the complaint has been referred to me for a decision.

The complainant stated that they only became aware of the error when the claim was made to the insurer. They said that [Company X] should have verified the details of his application at some point during the application process. They disputed whether the onus of providing correct information should be solely on the applicant.

The complainant did not consider that [Company X] could prove beyond all reasonable doubt that the incorrect date of birth was input on purpose. They also said that the method of inputting the date of birth on the website had now changed, which would have prevented the error from occurring.

Findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I have taken note of further representations made by each party following the case handler's initial conclusions.

I understand that the complainant is seeking proof beyond all reasonable doubt that the warnings were in place at the time of the application, and that the incorrect date of birth was input in order to obtain insurance that would not otherwise have been available.

This standard of evidence is not one that is applied by our office, and neither would it be applied in a court of law under similar circumstances. Our office assesses evidence on the balance of probabilities, which is how the case handler reached their conclusion and how I have subsequently made my decision.

I have considered the two applications logged by the [Company X] system, and have reached the same conclusion as the case handler. I consider that, on the balance of probabilities, these were both made by the complainant. The first application was rejected on the basis that the date of birth suggested the applicant was not old enough to apply for insurance coverage.

On this basis I am not satisfied that the date of birth on the second application, which suggested that the applicant was now eligible and could therefore proceed with the online process, was a typographical error caused by [Company X's] online application system.

Even if I were to accept this argument, I would still consider that [Company X] had provided sufficient evidence of the numerous online warnings and opportunities to check information before the application is finalised.

For these reasons I do not consider that the insurer acted unreasonably in voiding the policy, and do not consider that any fault can be attributed to [Company X] or the online insurance platform they maintain.

Decision

My final decision is that I do not uphold this complaint.

Douglas Melville
Principal Ombudsman and Chief Executive

Date: _____