

Undertaking

Introduction

As a qualifying body, we (the FSA) can challenge firms using terms which we view as unfair under the Unfair Terms in Consumer Contracts Regulations 1999 (the Regulations). This has led to the following firm undertaking not to use terms which may be considered unfair.

We have a duty under the Regulations to notify the Office of Fair Trading (OFT) of the undertakings we receive. The OFT has a duty to publish details of these undertakings. The OFT does so on its Consumer Regulation Website. Our policy is to publish details of the undertakings and the undertakings on our website. Both publications will name the firms and identify the specific term and the part of the Regulations which relate to the term's fairness. Please note that the firm implemented some of the changes below in 2005. The firm was completely cooperative and the changes below were implemented at the time the initial undertaking was given. In conjunction with our Statement of Good Practice, which was published in May 2005, the FSA began to publish undertakings it had received since it became a qualifying body. We are publishing this undertaking now to show how firms like HSA have cooperated with us in the past in revising their policies.

In general, firms should regularly assess whether their terms and conditions in consumer contracts meet the standards of fairness set out in the Regulations and consider what steps they need to take to comply with the Regulations.

Please be aware that publishing the undertakings may attract more consumer complaints both to the FSA and direct to firms, which will need to be addressed. We encourage firms to consider the undertakings we publish when reviewing their terms and conditions.

HSA Undertaking

Name of business	HSA	Lead organisation	FSA	
Trading sector	Insurance – Medical	Contract identifier	Personal Medical Plan & Health Cash Plan	
Original term	Application of the Regulations (Schedule 2 paragraph or as indicated)	How changed		New term
Term 2.5. Personal Medical Plan	Personal Medical Plan The term allowed the firm to cancel the contract. The original term stated: ' HSA may cancel your cover by giving you not less than 30 days	Personal Medical Plan The firm agreed not to rely on the original term found in existing contracts, until it had been withdrawn in January 2005. The firm notified all existing	Term 2.5.2, Personal Medical Plan	

	<p>notice in writing if:</p> <ul style="list-style-type: none"> - You breach the terms of your Policy. - HSA believes it is in the best interests of the Community of HSA personal medical Plan holders not to renew your contract of insurance.' <p>The term appeared to give the firm extensive discretion to end the contract i.e. if HSA '...believes it is in the best interests of the Community...'</p> <p>The term may not have met the requirements of Regulation 5 (1), which states that a term is unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the rights and obligations of the parties, to the detriment of the consumer.</p>	<p>customers that the term had been withdrawn.</p> <p>The firm amended the term for existing and new contracts, as of 14 January 2005.</p> <p>The amended term now states:</p> <p>'All Cover under this Policy will end automatically and You will not be covered for any further payment of medical costs in respect of You and all other persons included on your Policy when:</p> <ul style="list-style-type: none"> - You decide to cancel your Policy, by giving Us 30 days' notice in writing (which will take effect immediately on receipt by Us) ... - You become more than 30 days behind with the payment of your Premiums. At our discretion We may reinstate that Cover once outstanding Premiums have been paid - You mislead Us by providing incomplete or untruthful information to Us or knowingly claim Cover for any purpose other than is provided for under this Policy. - You breach the terms and conditions of this Policy, for which We will give You not less than 30 days' written notice. - You die. Cover can be transferred to your Partner subject to the continued payment of Premiums.' <p><u>Other Information</u> The firm said that the original term had not been used in practice.</p>	
Term 5.2, Health Cash Plan	Health Cash Plan Similarly, the term appeared to give the firm extensive discretion	Health Cash Plan The firm agreed not to rely on the original term in existing contracts	Term 4.1 d, Health Cash Plan

	<p>to end the contract because it did not specify the grounds on which it would consider doing this.</p> <p>The original term stated:</p> <p>'When does cover end? ... In respect of you and all other persons included on your Policy when you cancel your Policy by giving us notice in writing (which may take effect immediately on receipt by us) or when we cancel your Policy at any time by giving not less than one month's written notice.'</p> <p>The term may not have met the requirements of Regulation 5 (1).</p>	<p>on 2 June 2005.</p> <p>The firm amended the term in new contracts in October 2005.</p> <p>The firm are in the process of amending the term in existing contracts. HSA will write to these customers at their next review date. (But the firm will not be relying on the term until it is able to amend the existing contracts).</p> <p>The amended term states:</p> <p>'We exercise our right to cancel your policy at any time (with retrospective effect where appropriate) if you:</p> <ul style="list-style-type: none"> – misled us by mis-statement or concealment; – knowingly claimed benefits for any purpose other than as are provided for under this policy; – agreed to any attempt by a third party to obtain an unreasonable pecuniary advantage to our detriment; – otherwise failed to observe the Terms and Conditions of this policy or failed to act with utmost good faith.' <p><u>Other Information</u> The firm said the original term had been used in practice (with 0.03 % of its customer base).</p> <p>Under term 4 (b) the firm reserves the right to cancel the policy where premiums are not paid.</p> 	
<p>Other information</p>	<p>The firm was fully cooperative.</p> <p>The firm are notifying the customers affected by these changes.</p> <p>HSA changed its name to Simplyhealth Access in 2006.</p>		

**Undertakings
published**

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