

examined and in the end self-insured. At least Lloyd's brokers in their code of practice are recommended to keep records and confirm instructions in writing including reference to self-insured risks (1.3 of the code). Brokers and other intermediaries otherwise may run the risk of the courts quite rightly in my view preferring the client's version of events in these circumstances.

THE INSURANCE OMBUDSMAN ANNUAL REPORT 1989

In his first Annual Report as Insurance Ombudsman Dr Julian Farrand confirmed 63% of insurers' decisions referred to him by dissatisfied policyholders. This compared with a rate of confirmation of about 80% of cases referred to his predecessor. The number of cases referred to him last year rose by 25% to 1,883.

Whilst starting with the legal position, he is not restricted to it and can consider the principles of good insurance practice. The mediaeval maxims of equity are, we are told, a useful guide to the exercise of discretion and moral judgment. Each case is resolved as far as possible according to its own peculiar merits.

Developments in the courts nonetheless affect the outcome of applications to the Bureau. *Sofi v Prudential Insurance Company* illustrates this: the Ombudsman could not resist the conclusion that the judiciary accept as reasonable a significantly lower standard of care than insurers, or indeed the Ombudsman, hitherto had.

The application of proportionality in cases of non-fraudulent non-disclosure shows the Ombudsman stepping beyond the confines of the legal position. By applying a proportional approach, the claim is met in the same proportion to the total claim as is the premium paid to the appropriate premium which would have been paid given full disclosure.

The Ombudsman's report contains much else of interest. It is available from the Insurance Ombudsman Bureau, 31 Southampton Row, London WC1B 5HJ at £2.50 per copy.

JRMF