



LAW & ORDER

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John Doe was 45. His life was falling apart. He lost his banking job when the regulator gave him a prohibition order. He did not find another job and his former friends ostracised him. His marriage was under strain following an affair. His children were at public school and he could ill afford the fees. His wife, Jane, did not know he had forged her signature on a mortgage of their house. He was also drinking heavily and suffering from depressive moods.

He decided to end his life. He insured himself with Acme Insurance for £150,000 (\$219,437). Cover for suicide came into effect a year later. He killed himself after two years by driving his car off a cliff.

Jane made a claim on the Acme policy. Acme called for inspection of John's medical records. These revealed his depression and advice from his doctor to stop drinking and attend Alcoholics Anonymous sessions. He had covered all this up, so Acme refused to pay. Jane made a claim to the UK's Financial Ombudsman Service (FOS).

Conflict between ombudsmen

There is a conflict between different ombudsmen as to how claims arising from suicide should be determined. It turns on an Association of British Insurers (ABI) code, misrepresentation and treating customers fairly. The code requires insurers to have a legiti-

The insurance of suicide



mate reason for requesting medical information when dealing with claims. They should not seek it as part of a "fishing expedition".

In one FOS case the claimant had taken out life insurance in 2010 and committed suicide in 2011. The insurer's investigation of the medical records revealed an undisclosed history of depression, non-prescription drug use and advice to stop drinking on medical grounds.

The ombudsman, Greg Barham, held the code requirements had been breached and upheld the claim. He said: "[The insurer] would not have known whether depression, drink or drugs were

factors in [the claimant's] death – there was and still is little evidence to suggest they were. And even if [the insurer] was aware of statistical evidence that indicated that people who take their own life tend to suffer with mental health problems, these could have been short-term issues, arising after the policy had started, brought on by a whole range of factors: for example, money problems, the death of a relative, pressure at work, relationship problems."

In two other FOS determinations, however, the ombudsmen arrived at the opposite conclusion. In the first, the life cover started in April 2009 and the in-

sured committed suicide in December 2010. He did not reveal on the application form he had had drinking and mental health problems. Ombudsman Melissa Collett did not uphold his widow's claim. She held the insurer had been justified in investigating whether there had been misrepresentation. In a third case the ombudsman, Jim Biles, took a similar approach to Collett. On the other hand, ombudsman Doug Mansell followed the Barham approach in a fourth case.

So it is not clear whether Jane's claim would be successful or not.

Some high-level issues arise from these cases:

- a moral hazard is created when people are covered for suicide. A Hong Kong study found the insured was more likely to attempt suicide after the policy's initial 12-month exclusion period. The moral hazard is lower where (as in Germany) the cut-off point is three years rather than one, so there may be a case for extending the one-year limit;
- the NHS reports "90% of people who attempt or die by suicide have one or more mental health conditions... most commonly depression or an alcohol problem". On the other hand, suicide can arguably arise from rational choice. So do insurers have a good reason for investigating where no mental health problem has been disclosed when the policy was taken out? How long, if ever, after policy inception does such an investigation become illegitimate?
- what can insurers, intermediaries or doctors do to discourage people from taking out insurance with a view to committing suicide, or to help people to understand the insurance and other consequences if they later form an intention to commit suicide? Or are people with cognitive deficits arising from depression and/or alcoholism beyond the reach of such help? and
- the ombudsman's jurisdiction is limited to £150,000, a very modest sum in life insurance terms. In these cases should there be a convergence in the practice of the courts on the one hand and the ombudsman on the other? ■

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Brazilian corruption scandal – the insurance impact

Insurers and reinsurers of Brazilian directors' and officers' (D&O).

works projects. However, it is not just the accused companies that

of major construction projects, including for oil production plat-

the interpretation of policy coverage. Petrobras' D&O notice

potential criminal liability with civil liability