

## The complaint

Ms B is unhappy she wasn't told that the broker (BL) she used to arrange her property insurance policy was a trading name of Abbey Insurance Brokers Ltd (AIB). Nor was she told the business providing the insurance policy (P) was part of the same financial group as AIB and BL. Mrs B is also unhappy that she wasn't told which insurer underwrote the policy recommended to her. Ms B believes this means the policy was mis-sold as she wasn't placed in a position to make an informed decision about whether to accept the policy recommendation.

In addition, Ms B has raised concerns that she wasn't recommended to add legal cover to the insurance policy, which she would have been able to use to move her claim under the policy forward.

## What happened

In June 2018 Ms B spoke to BL about insurance for her home. She had an existing policy protecting the property and it was due end on 5 July 2018. The adviser checked details about Ms B's home and its use; this was to ensure the right policy was selected for her. The adviser made her aware that the fact her home was in a subsidence risk area meant it was harder to arrange cover. The policy with P was recommended and there was some discussion about the premium and a comparison made between the previous policy and the renewal quote. Ms B was asked during this conversation if she wanted to add any additional cover to the policy, including legal cover, but she declined.

It was agreed that the adviser would send the policy information to Ms B to consider and she would call back if she decided to accept the recommendation.

Ms B accepted the recommendation for a policy and paid the policy premium. AIB acknowledged payment on the same day and sent Ms B a letter enclosing its terms of business and the schedule for the policy. The first thing on the terms of business is the following statement:

*'Abbey Insurance Brokers Limited trading as [BL] is a company registered in Northern Ireland under company registration number NI053754. Our registered office is 10 Governors Place, Carrickfergus, County Antrim, BT38 7BN. We are a wholly owned subsidiary of Prestige Insurance Holding Limited and are authorised and regulated by the Financial Conduct Authority.'*

It went on to confirm:

*'All our products are selected from a panel of insurers using a fair analysis of the market except for our Travel, Legal Expenses, Motor, Breakdown, Home Emergency, XS Protect, Replacement Car Benefit and KeyCare products which are provided by single insurers. A list of the insurers used for these products is available upon request.'*

The policy schedule was a five-page document. On the second page under the endorsements applicable to the policy, it stated the underlying insurer for the policy was an insurer I will refer to as L.

In 2019 Ms B complained to AIB about the sale of the policy and the circumstances surrounding it.

AIB responded to Ms B's complaint. It said that she had been issued with details of the policy it had recommended she consider, before she decided to go ahead with the policy. It confirmed that P was managed separately from AIB and BL and there was no incentive for staff to recommend policies with P. It didn't uphold the complaint. In addition, AIB confirmed that Ms B hadn't had legal cover under her previous insurance policy either; implying that it wasn't something that was important to her at the time of the sale or earlier. Ms B wasn't happy with AIB's response and asked us to consider the complaint. One of our investigators considered the complaint, but she didn't recommend it be upheld.

Ms B didn't accept the investigator's conclusions. She said she thought the investigator was saying she had been misled about the relationship between the parties and Ms B suggested this was done in order to benefit the broker and P. She highlighted that commission had been paid to AIB for the sale of the policy. Ms B said she had spoken to the regulator and it had told her she should have been told about the link between the businesses and if this was not done, AIB was in breach of its principles and rules. Mrs B didn't say which rules and principles the regulator had told her had been breached and, despite making appropriate requests, we were unable to obtain any information from the regulator about the discussions with Ms B.

Ms B said there was no time for her to take anything other than the policy she was recommended. This was because she hadn't taken up the renewal invitation with her previous insurer and AIB didn't provide its service until it was too late to evaluate the proposals.

Ms B went on to say that, whilst she wouldn't share the details of what had happened, the reason she didn't want to be insured by L was because it had previously denied her insurance. She said not using it was a matter of probity. She also said the broker had been acting on her behalf for a number of years, therefore, a degree of trust had been built. Ms B requested an ombudsman's review of the complaint, as is her right.

I issued a provisional decision on 9 November 2020, in which I set out my conclusions and reasons for reaching them. Below is an excerpt of that document.

*'Before I consider the merits of Ms B's complaint, I believe it would be appropriate to explain the roles of the various businesses in this matter. AIB is an insurance broker and it is responsible for the advice it provides and any administration of the application it completes. AIB also has some other trading names, including BL.*

*P is a form of broker too, however, it would also commonly be referred to as a 'retail insurer'. What it does is design insurance products that its experience as a broker has told it would be successful. Those products are branded with its name and, once designed, it will arrange an insurer to 'underwrite' the policy. The underwriter for such policies can change over time. Sometimes a retail insurer will only sell its products itself, but sometimes they will be made available to other brokers to sell.*

*The insurance company that acts as the underwriter is not responsible for the sale of the policy or usually its design. However, it is responsible for dealing with claims. Sometimes the retail insurer will do some of the claims handling function, but when it does so, it is doing it*

*on behalf of the underwriter. The underwriter in that situation would remain responsible for any claim decisions made.*

*For clarity, AIB and P are separate legal and regulatory entities, despite being part of the same business group.*

*I have considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. When doing so I have taken into account relevant law, the regulators rules and guidance and good industry practice. However, our remit is a fair and reasonable one. So even if there may have been technical breaches of rules or guidance, that does not mean a complaint will be upheld. What I will determine is if AIB made a mistake or error, and if it did, whether Ms B had been disadvantaged by it.*

*Ms B has confirmed that she had been a customer of the broker for many years. Each year she was, she would have been given a copy of the terms of business, which sets out the broker's status among other things. Whilst I would expect the broker to explain the terms of business when Ms B first became its customer, I wouldn't expect it to go through the same details orally to refresh her understanding each and every time it spoke to her.*

*What I would expect is what happened; Ms B was given a further copy of the terms of business detailing that information. I note that Ms B has said she doesn't remember being given this information orally the first time she spoke to the brokerage. However, that is some time ago and it may not have seemed important at the time. I don't think the adviser did anything wrong in not reiterating that the brokerage was a trading name of AIB or that AIB was a member of the same business group as P in [2018] when it recommended a policy with P.*

*I am satisfied that Ms B should reasonably have been aware of the relationship between AIB and BL. As such, I don't consider the policy was mis-sold or that there was a fraud, as Ms B has latterly suggested. Indeed, if AIB had planned to behave inappropriately, it seems unlikely that it would have previously recommended a policy from a completely unrelated insurer from its panel of insurers.*

*That said, even if I had found that AIB should have orally explained to Ms B that AIB was part of the same business group as P during the discussions about the policy, I would need to establish if she had been prejudiced by it not happening. So I need to consider whether she would likely have made a different decision if she'd been reminded. Given Ms B's primary concern during the discussions was the cost of the policy, I don't think she would have declined the opportunity to save over £75 on the alternative of renewing her existing policy because of a remote link with P.*

*Ms B has commented that the policy didn't include legal cover that would have assisted her in her present situation. AIB has said the previous insurance policy didn't include this cover. I am satisfied Ms B was offered the option of adding legal cover to her policy during the discussions with the adviser in June [2018]. She declined and I can't find AIB did anything wrong in this respect.*

*When recommending an insurance policy, I wouldn't usually expect a broker to highlight which insurer was acting as underwriter. At the point of sale, it is the policy benefits and premium that is usually important to a consumer and which business it is that is offering the policy. Those are not things the underwriter is generally involved in and it is not the underwriter that is offering the policy. Indeed, the underwriter can change without any effect on the policy and the cover it offers.*

*Ms B has said that she wouldn't have taken the policy out if she had known the underwriter was L. During the conversation with the adviser he made it clear that he was looking at alternative insurers for Ms B. I would have expected her to have raised the issue if she had any strong preferences for insurers or similarly any objections. She didn't do so.*

*It isn't possible for me to determine with any certainty what Ms B would have done had she been told L was the underwriter, but I don't think AIB did anything wrong in not telling her when it recommended the policy. As such, I can't uphold this part of the complaint.'*

Ms B didn't accept my provisional decisions. She questioned whether we had followed the appropriate procedure to obtain information from the regulator. It was confirmed that we did, and that the regulator had declined to provide the information about Ms B's discussions with it we had requested. Ms B subsequently approached the regulator and asked that we do so again too. Following this, the regulator provided two call notes relating to Ms B's concerns about her policy and claim. The one relating to her concern about there being a conflict of interest in relation to the sale of the policy by AIB, referred Ms B to Principle 7, which is about the need for clear communication. It doesn't record that any opinions about the situation were voiced by the regulator during the discussion.

Further comment was made by Ms B about the roles of the different parties detailed in documentation and during the sale and claim handling. She remained of the view that AIB should have highlighted that P was part of the same group of companies. Ms B also alleged P paid AIB more commission than it does other brokers, but when asked for evidence to support her statement, she wasn't able to provide any. She maintained that AIB should have told her it and P were part of the same group of companies and shared two board members.

Ms B said she was not concerned about having legal cover on the policy as she considered there was little to litigate given her property had been underpinned. She was also of the view that the legal cover available under the policy was of little use anyway and was akin to PPI.

It was asked by Ms B why, rather than being objective and taking facts, regulations and guidance into account I had chosen to instead to become subjective and assume I knew what Mrs B would or would not have done. Ms B expressed disappointment that I hadn't attempted to ask questions of her to establish what she likely would have done, had she known about the link between AIB and P.

Ms B pointed out that I had referred to the events happening in 2019 throughout my provisional decision, rather than 2018. As such, she didn't believe I had reached my conclusions based on the correct information – documentation and telephone calls – so they were wrong. She provided a copy of the 2018 policy schedule and two copies of the terms of business document.

AIB confirmed it had no further comment to make in response to my provisional decision.

### **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.

Ms B has highlighted that I used the wrong year in my provisional decision. I have already apologised for this error and reassured Ms B that my conclusions were based on the events of 2018, including the telephone call during which the renewal of the existing policy and the recommendation of that with P happened.

In relation to the documentation, Ms B has said the terms and conditions I quoted from is not the one she was sent. She provided two copies of the terms of business document with her response to the provisional decision. Both documents are detailed as being version 23 of the document, dated May 2018. They both record exactly the wording I have quoted above, so I am satisfied I was reviewing the correct documentation. The same applies to the information contained in the second page of the policy schedule.

As for the matter of the relationship between AIB and P, I would firstly like to clarify that AIB is not responsible for any information either P or L provided to Ms B. I also note Ms B's comments about what the regulator said to her about the relationship. However, this is not supported by the information we were provided with by the regulator about those discussions.

For clarity, AIB and P are both owned by the same holding company. Whilst there is some overlap between the directors of the two companies, I don't consider that alters my conclusions about the relationship – I am not persuaded AIB needed to highlight the relationship when it recommended the policy with P in 2018. I know Ms B doesn't agree with me on this point, but that remains my conclusion. I am also satisfied that AIB didn't need to highlight which insurer was underwriting the policy at that time.

Ms B has said I shouldn't have made assumptions about what she would have done, had she had all the information she believes she should have had at the time of the sale. When determining what action a consumer would have taken, we have to make some assumptions. While it is sometimes possible to question a consumer about what they would do in certain situations, it is very difficult to obtain answers that are not coloured by hindsight and affected by the events that have since happened. In this case, I listened to Ms B's call with the broker where renewal of the old policy and the possible new policy with P were discussed. It was very clear from this conversation what Ms B's priority was – the cost of the policy. In the situation where Ms B wasn't aware that her claim under the new policy would be declined, I remain satisfied that the notable reduction in premium would have meant she would have taken the policy with P, even if it had been highlighted that it was part of the same business group.

Ms B has said she believes her previous insurer would have helped her in the situation in which she now finds herself. It would be very unusual for an insurer to assist in a situation where damage claimed for was not covered under any of the policy perils and legal cover wasn't included.

Ms B has said she believes the insurance industry operates like a racket with policies being created that are not worth the paper they are written on. She went on to say information is withheld that would contribute toward policyholders making informed choices and no purchaser will ever become aware of the bogus nature of the insurance industry until they make a valid claim and the industry endeavours to wriggle out of meeting the claim. I'm sorry Ms B feels this way about her experience of the insurance industry. I can understand that having her claim declined will have been more than disappointing, but I won't comment on that issue here, as AIB is not responsible for that decision.

## **My final decision**

My final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Ms B to accept or reject my decision before 20 April 2021.

Derry Baxter  
**Ombudsman**