

The complaint

Mr C has complained that he was mis-sold a business insurance policy by TBO Services Limited, trading as The Insurance Octopus ("TBO").

What happened

In 2020, Mr C made a claim under the policy sold to him by TBO. That claim was eventually settled but not for the amount he was expecting. The insurer made a deduction from the settlement, as it said he was not insured for the correct amount.

Mr C renewed the policy in September 2020 and the new policy specifically excluded claims related to Covid-19, so Mr C was unable to claim for losses caused by the Government related restrictions imposed in November 2020.

Mr C is very unhappy about the service provided by TBO and says TBO mis-sold the policy in September 2019 with the wrong indemnity cover and in September 2020, as it did not tell him that it excluded Covid-19 related claims.

As these relate to different policy contracts, I am dealing with the sale of each policy separately. This decision relates only to the sale in September 2019.

Mr C has made a number of points in support of his complaint about the sale of the 2019 policy. I have considered them all but have summarised his main points. Mr C says he was asked for his annual turnover net profit. He says turnover would be the same as gross profit; and net profit would be what is left after his overheads were paid. Mr C says he gave TBO his annual net profit figure but this was provided by TBO to the insurer as his gross profit figure in error. TBO also had the turnover and stock figures, so could clearly see that the figure was for net profit but put the figure in the wrong box, which resulted in him being underinsured.

As a result of the underinsurance, Mr C was paid just over £12,000 for his first claim instead of over £25,000.

TBO says that during the initial sale in 2017, Mr C told its agent that his turnover was £80,000pa and gross profit was £30,000pa (this was later increased to £40,000pa) and the policy renewed on the same sum insured (*i.e* £40,000) in 2018, 2019 and 2020.

However, TBO said that it should have added employer's liability cover from the first policy in 2017, as the need for it (in relation to Mr C's trainees) was discussed but it had not been added. TBO says it arranged for this cover to be added and it paid the additional premiums of £11.20 for this.

One of our Investigators looked into the matter. He did not think there was any evidence Mr C was asked for his net profit and TBO provided the insurer with the figure Mr C gave it for his gross profit, which set the level of business interruption cover provided. The Investigator did not therefore think that TBO was responsible for the underinsurance.

Mr C does not accept the Investigator's assessment, so the matter has been passed to me.

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.

I can only look at the sale of the policy in 2019 in this decision but the information provided in relation to the first sale in 2017 is relevant to my consideration of the later sale.

Mr C says he was asked for his annual turnover (which would be the same as gross profit) and his annual net profit. Having listened to the first sales call in 2017, I don't think this is the case.

Firstly, it is clear from this call that the sale was conducted on an information only basis, which means TBO was not offering any advice about which policy to take or the suitability of its advice.

TBO's agent asked a number of questions about Mr C's business and the business premises. He then talked about business interruption cover, which he said would cover loss of gross profit. The agent asked Mr C: *"Over the space of a year says what would your gross profit be?"* and Mr C answered: *"anything up to about £30,000"*.

They then talked about the length of cover and the agent asked: *"In terms of annual turnover would you know what that would be?"* Mr C responded that it was approximately £80,000.

The gross profit figure was increased to £40,000 before the policy started. There's no evidence on the file presented to me about when this was changed, as far as I'm aware.

I also note that the policy schedule each year stated that business interruption cover was for:

"Loss of gross profit (including increased costs of working) Amount insured £40,000".

I think it was clear that TBO asked for turnover figure and gross profit figure. It did not ask Mr C for his net profit figure.

I am not therefore persuaded that the fact Mr C's business interruption sum insured was £40,000 was due to anything that TBO did wrong. It follows, that I do not think it is responsible for any deduction made by the insurer to his settlement claim, as a result of the sum insured not being correct.

For the avoidance of doubt, I have not considered whether the insurer was entitled to make the deduction it did. If Mr C wants to make a complaint about that, it will have to be considered separately.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 5 April 2023.

Harriet McCarthy

Ombudsman