

The complaint

Mr A complains that ATLANTA 1 INSURANCE SERVICES LIMITED trading as Mackenzie Hodgson mis-sold him a personal accident policy.

What happened

Mr A was involved in an accident when riding his motorbike. He'd purchased a personal accident policy but had multiple issues when he tried to claim on it. Mr A says that ATLANTA mis-sold him the policy and shared his data with another business.

Mr A has made other complaints which arise from the same accident which include:

- A complaint against ATLANTA about customer service. Our investigator upheld this complaint and awarded a total of £150 compensation for poor service. That included Mr A spending lots of time on hold, being given a number to call which wasn't answered and being given the wrong information on multiple occasions.
- A complaint about a business I'll refer to as 'T'. T offered Mr A £400 compensation. That figure was based on Mr A's calculation of what he'd have been entitled to claim from other personal accident policies available on the market.
- A complaint about a business I'll refer to as 'M'. M offered Mr A £375 compensation because he was wrongly told his motorbike was roadworthy, when it wasn't.

ATLANTA issued a separate final response letter in relation to this complaint. ATLANTA said that whilst they felt the policy documentation issued was clear in explaining what was covered under the personal accident policy, they were upholding the complaint. They said that the agent failed to provide Mr A with key information at the time of purchasing the policy. They offered to refund the premiums in full, pay £50 to cover one night's hospitalisation and £150 compensation. This brought the total compensation to £229.95.

Our investigator looked into what had happened. He thought the offer was fair and reasonable. Mr A didn't agree. In summary, he disagreed that he'd taken out the policy online – he said the policy was purchased over the phone. He also said that a company that had cold called him said ATLANTA had given them his details.

The investigator looked into how the policy was taken out in more detail. He concluded it was most likely that Mr A's application started online but that he had to phone ATLANTA to complete it. On balance, he was satisfied that Mr A had the opportunity to check the cover. Whilst he acknowledged Mr A had found alternative cover, with different benefits, he didn't think it was likely that Mr A would have made a different decision about this policy at the point of sale.

Mr A didn't agree and asked an ombudsman to review the complaint. He reiterated that he did not go onto ATLANTA's website and had gone via a price comparison website which only gave basic details about the policy. He said the investigator had ignored the issues relating to the useless documents and the phone number which didn't work. He also queried why ATLANTA couldn't tell him who the insurer was and why there's no name of the insurer on the documentation. In summary, Mr A felt a number of his concerns, and evidence he'd provided, had been ignored or overlooked.

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'm sorry to hear about the impact of Mr A's accident. He's explained how it's affected his physical and mental health. It's clear the difficulties he experienced making his claim added to his worry at an already difficult time.

The Financial Ombudsman Service is an informal alternative to the courts. I am not required to comment on every piece of evidence or argument presented by Mr A or ATLANTA. My decision will focus on the key points which I think are relevant to the outcome of this complaint.

As I've outlined above Mr A has made other complaints and the focus of this complaint is whether the policy was mis-sold. Mr A's complaint to ATLANTA was that the policy was mis-sold because it claimed to cover bodily injury. He said it wasn't fit for purpose and was completely mis-sold as he was injured but left with no compensation.

ATLANTA has offered to refund the premiums to Mr A, pay him £50 to reflect a hospital benefit payment and £150 compensation. I think that's a fair and reasonable offer for the reasons I'll go on to explain.

The relevant rules and industry guidelines

ATLANTA didn't give Mr A advice about taking the insurance policy out. That means that the relevant rules and industry guidelines say that ATLANTA had a responsibility to ensure that Mr A had enough information to decide if the policy was right for him. That includes giving him information that is clear, fair and not misleading.

Was the policy mis-sold?

ATLANTA acknowledged in their final response letter that the agent failed to provide Mr A with key information. ATLANTA says that the sale arose from an online quote, but Mr A was asked to contact them when he went to put in his registration number.

I don't think it's necessary for me to listen to all the calls Mr A made to ATLANTA about the policy. This complaint is about the sale of the policy and I'm satisfied I have the relevant call where Mr A discussed the personal accident policy as part of the sales process. This is the same call that ATLANTA have referred to as the call where the agent failed to give Mr A key information.

During the conversation with Mr A the agent highlighted some information about the policy to him. I don't know if Mr A had seen more information about the policy online, or not. In this particular case I don't think it's central to the outcome of this complaint.

ATLANTA accepts the information could have been made clearer during the call. In any event, even if I thought that Mr A didn't have sight of any documents online and the key information wasn't highlighted to him during the relevant call, I still think the post-sale documentation gave Mr A enough information to decide if the policy was right for him. I've seen a welcome letter and the policy documents that were sent to Mr A. The date of the correspondence is the same date as the phone call where the policy was discussed so I think it was most likely to sent to him at that time. The documents explain what the policy covers. If Mr A didn't receive the documents, I think it would have been reasonable to expect him to chase up a copy so he could check the level of cover available.

Mr A could cancel the policy at any time. Mr A therefore had the chance to review the policy and decide if it was right for him. If he had concerns about the type or level of cover available, he could have cancelled it. The fact that he didn't suggests that it's most likely he was happy with the level of cover. I appreciate Mr A is now aware that other policies offer different benefits but that's not something I can hold ATLANTA responsible for. They didn't have any obligation to explain how this policy compared to others available on the market in the circumstances of this case.

Mr A said that the investigator hadn't dealt with some of his complaint points. And, in summary, he didn't think it was fair to say that because he'd accepted compensation in another case it meant that he shouldn't receive more compensation as part of this complaint. Our investigator upheld a different complaint about ATLANTA and awarded compensation to Mr A for spending lots of time on hold, being given a number to call which wasn't answered and being given the wrong information on multiple occasions. So, I don't think the investigator has ignored the issues about misinformation or the phone not being answered. Rather, they aren't addressed in this particular complaint because it's about the mis-sale of the policy.

I've also taken into account what Mr A has said about the policy documentation not naming the insurer. The policy document has a section which says, 'who is your insurer?'. It explains in that section who underwrites the policy. It's also mentioned on the schedule of insurance.

I don't know why it took ATLANTA so long to be able to confirm who the insurer was. But, Mr A has already been awarded compensation for the failings in the claims handling as part of a separate complaint. My decision is focused on Mr A's complaint that the policy was mis-sold.

I think the compensation offered by ATLANTA is fair and reasonable. I think it fairly reflects that Mr A experienced some distress and inconvenience because he wasn't given key information about the policy during the call. But, I also bear in mind that he was sent the full policy documentation and could cancel at any time. So, overall, I think the refund of the premiums and the additional compensation fairly reflects any distress and inconvenience caused.

Did ATLANTA pass on Mr A's details to a third party?

I've not seen any persuasive or compelling evidence that ATLANTA passed on Mr A's details to a third party. Mr A says a company who cold called him told him ATLANTA was responsible. Mr A hasn't provided any further evidence in support of that.

I've not seen any compelling evidence to corroborate what Mr A was told by the third party who called him. So, on balance, I don't think there's enough information for me to safely conclude it is most likely that ATLANTA passed on his details to a third party when they shouldn't have done.

Putting things right

I think the refund of the premiums, payment for one night's hospital stay and the £150 compensation offered is fair and reasonable.

ATLANTA needs to pay Mr A a total of £229.95 compensation if it hasn't done so already.

My final decision

I'm upholding Mr A's complaint to the extent I've outlined above. ATLANTA 1 INSURANCE SERVICES LIMITED trading as Mackenzie Hodgson has already made an offer to pay £229.95 to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that ATLANTA 1 INSURANCE SERVICES LIMITED trading as Mackenzie Hodgson should pay Mr A £229.95.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 June 2023.

Anna Wilshaw
Ombudsman