

## **The complaint**

M's complaint is about Michael Howard, trading as U K I Direct's ('UKI') failure to sell it personal accident cover when it took out a Master Tradesman's insurance policy with them in 2020.

Mr H, on behalf of M says that UKI should have identified a need for this cover and sold it to him accordingly and their failure to do so meant he wasn't able to work since he had an accident whilst at work in 2021.

## **What happened**

In 2020 Mr H took out a Master Tradesman's insurance policy with UKI. The sale was conducted on an advised basis. In 2021, Mr H was sent renewal documents and asked to check them before agreeing for cover to roll over. Mr H agreed to this, and the policy renewed.

Later that year Mr H slipped and fell from a roof whilst working, which resulted in him being hospitalised and requiring surgery. He's explained that his injuries have meant he's been unable to work since. A couple of months after the accident, Mr H contacted UKI to find out if he had personal accident cover for the losses M had suffered as a result of him being unable to work. UKI explained that he'd only taken out employer's and public liability cover and not personal accident cover.

Unhappy, Mr H referred his complaint to the Financial Ombudsman Service. He says he felt UKI should have sold him a policy that was suitable to his needs and the insurance he had didn't extend to covering him for the risk his trade put him in, which ultimately resulted in the injury he suffered.

Our investigator considered M's complaint and concluded it should be upheld. She said that because UKI had sold the policy on an advised basis, they had a duty to ensure it was suitable for Mr H's needs- and those needs extended to protecting him from the risk of injury given the type of work he did. As such she directed UKI to appoint a loss adjuster to assess Mr H's claim as if he had taken out the optional additional personal accident cover that could have been added to his policy. The investigator said that interest of 8% per year simple should be paid on any claim from the date Mr H contacted them, until the claim is settled. She also directed UKI to pay him £500 in compensation for the distress and inconvenience caused to him.

UKI doesn't agree, so the matter has been passed to me to determine.

## **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.

Having done so, I intend to uphold this complaint for broadly the same reasons set out by the investigator.

The policy was initially sold to Mr H on an advised basis in 2020 by telephone. The renewal was sent to Mr H in writing the following year. Although the claim was made against the renewed policy, I've considered the 2020 sale in more detail because it's clear from what Mr H has said that he was renewing the policy on the same terms and based on the same recommendation UKI originally made in 2020. From what I've seen, that's consistent with the cover he was sold again in 2021.

Because the policy was sold to Mr H in 2020 on an advised basis, UKI had an obligation to ensure it was suitable for M's needs. They also needed to ensure they gave Mr H enough information to allow him to make an informed decision about whether to take the policy out.

Mr H's specific complaint is UKI's failure to sell him/M personal accident cover. He says this was essential to ensuring M could operate in the event he couldn't work as a result of an accident at work. I've thought about this in the context of 2020 sale. There isn't a telephone recording available of the sale but from the documents I've seen- namely the Statement of Fact and Statement of Demands and Needs, there's nothing to suggest that personal accident cover was considered or discussed. UKI say this was because Mr H specifically requested employer's and public liability cover when he contacted them. I can understand that but in selling insurance on an advised basis UKI needed to ask questions about Mr H's business and circumstances and offer products that were suitable for those needs.

From what I've seen, the insurance sold to Mr H provided cover in the event that one of his employees was involved in an accident at work, Mr H wasn't covered for this himself. And personal accident cover was an optional extra that Mr H could have purchased, had it been recommended to him. The Statement of Demands and Needs says:

***“Based on this information and on our knowledge of the market, we recommended the following:***

***A policy with Covea that meets your needs and requirements at a competitive price”***

***“As you are aware, we recommended that you considered the following covers, but note from our records that you have elected not to proceed with them:***

***Legal Expenses”.***

So, I don't think that UKI did discuss whether Mr H would've wanted optional personal accident insurance to cover himself in the event he was injured. Mr H has said that had he known he wouldn't be covered for this like his employee was, he would've asked for cover. I'm persuaded by this. The nature of the work Mr H did was known to UKI- he provided roofing services. So, the risk associated with those services would've also been apparent as well as the consequences of any injuries he might suffer whilst at work. Because of this I think UKI should've recommended personal accident cover and if they had, I think that Mr H would've taken it up both in 2020 and at renewal in 2021. UKI's failure to identify a need for and recommend this product meant that Mr H didn't take it up and wasn't covered when he was injured in 2021. From what Mr H has said, this has caused him considerable stress and worry at a time where he was recovering from the accident and the surgery that followed. I understand Mr H is still experiencing adverse health affects as a consequence which has meant he's been unable to work and therefore M is not receiving any income. Because of this I think UKI should put things right as I've set out below.

When reaching these conclusions, I want to make clear that I've taken on board UKI's submissions about why they aren't responsible for the fact that Mr H didn't take out cover. The refer to the fact that the documents he was provided with made clear he didn't take out

personal accident cover and that he needed to ensure the insurance was suitable for his own needs and circumstances. I agree that the documents Mr H was provided with didn't specify he had personal accident cover, but I don't think this makes a difference. From what Mr H has said, he thought he was covered by the insurances he took out in the same way his employee was and I've seen nothing to suggest that it was made clear to him that he wasn't and that he'd need additional cover if he wanted this. And given this was an advised sale, it wasn't for Mr H to ensure the insurance was suitable for his needs and circumstances- this was up to UKI.

### **Putting things right**

UKI should now do the following:

- Instruct a loss adjuster to assess Mr H's claim against the terms of the personal accident cover that would've been sold to him had UKI recommended it, in order to ascertain whether his claim would be covered.
- If Mr H's claim is covered, the loss adjuster will need to determine what, if anything is payable under that policy and, UKI will need to pay Mr H this.
- UKI will be entitled to deduct the cost of the policy premium applicable to the personal accident cover for two policy periods starting from April 2020, against any settlement amounts payable to Mr H.
- UKI must pay interest at 8% per year simple on any settlement amount payable to Mr H from the time he contacted them to find out if he had cover after the accident, until the claim is paid. UKI should note that interest runs from the specific date this happened because this would reasonably have been the time Mr H would have sought to claim on his policy.
- UKI should pay Mr H £500 in compensation for the distress and inconvenience their failure to correctly identify his needs and recommend products suitable to them ultimately caused him.

**My final decision**

For the reasons set out above, I uphold Mr H's complaint against Michael Howard trading as U K I Direct.

Under the rules of the Financial Ombudsman Service, I'm required to ask M to accept or reject my decision before 29 December 2023.

Lale Hussein-Venn  
**Ombudsman**