

The complaint

J, a limited company, complains about what FSB Insurance Service Limited did when selling and renewing an employer's and public liability insurance policy. The complaint is brought on its behalf by its director, Mr D.

What happened

In August 2021 J took out insurance online through FSB covering employer's and public liability insurance. The following month Mr D asked whether professional indemnity cover could be included. A quote was provided but he didn't go ahead with that. The policy renewed on the same basis in September 2022 and September 2023. In October Mr D said he'd suffered a knee problem which meant he would be unable to work. FSB said his policy didn't cover this; the insurance was for injury to third parties or to employees for which the business was legally liable. It didn't include personal accident cover.

Mr D complained the policy should have covered him for what happened. FSB said this wasn't something that would normally be covered under the type of policy he'd taken out. And while personal accident cover could have been bought J had never requested or discussed this in any of its exchanges with FSB.

Our investigator noted that the policy was initially taken out online on a 'non advised' basis but had been recommended to J at the subsequent renewals. And she wasn't clear whether FSB had taken appropriate steps to identify J's demands and needs. But she thought the information it had then been sent set out the basis on which cover was being provided and it was clear cover for personal accident wasn't included. She didn't think FSB was responsible for J not having cover in place when Mr D was unable to work.

Mr D didn't agree. He said FSB was a broker which specifically dealt with the needs of businesses like his and should have understood the impact his inability to work would have on J. FSB hadn't carried out a proper assessment of J's demands and needs and if it had done cover would have been in place which covered his situation. It hadn't been clear to him what the policy covered and as a tradesman he wasn't experienced in dealing with insurance documents. So I need to reach a final 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.

First, I appreciate this has been an extremely stressful time for Mr D personally. I recognise not being able to work will have seriously impacted his business and I was sorry to learn of how difficult things have been for him. But the question I need to consider is whether FSB did anything wrong in relation to the sale and renewal of this policy (and if it did what the impact of that has been on J – but for any error would it have had insurance in place which covered the claim it subsequently made).

J initially took this policy out online on a 'non advised' basis. FSB's responsibility in relation to that was to provide clear, fair and not misleading information about the policy so J could decide for itself whether it met its needs. However, the subsequent renewals were on an advised basis. For those the relevant rules say "*a firm must take reasonable care to ensure the suitability of its advice for any customer who is entitled to rely upon its judgment*". FSB's terms of business say "*We will ask questions to enable us to assess reasonably your insurance requirements, this may include checking information that we already hold about you and your existing insurance arrangements with us and other parties*".

I've thought about how that applies here. It doesn't appear in this case that there was any verbal discussion between Mr D and FSB about J's requirements. So I've looked at the other evidence to see if FSB took reasonable steps to recommend a suitable policy for J. I'm mindful of the fact J had already taken out insurance on a non-advised basis through FSB. And I think the information it was given about the policy at that point would have enabled it to understand the basis on which cover was being provided.

In particular I can see the policy schedule it was sent set out the cover that was included (and made clear that didn't include personal accident cover). So I think it was reasonable (and in line with FSB's terms of business) for it to conclude J had selected a policy it felt met its needs and to take that into account when considering J's requirements at renewal. FSB then set out its understanding of J's 'Demands and Needs' in the information it sent prior to the policy renewing in 2022 and 2023.

It said it had identified those as being for "*A Tradesperson policy designed to provide cover for the liability and contract works cover needed by a business. Cover may include a combination of your legal liabilities to your employees, the public caused by products supplied, plus damage to the contract works themselves, materials, own and hired in plant, site huts and employees tools.*" And it said its recommendation was for cover which included "*Employers Liability, Public Liability, Material Damage and Employees Tools*". The policy J took out covered that.

It doesn't appear at any point J gave FSB any specific indication that it had a need for cover which went beyond the identified 'Demands and Needs' set out in the information it was sent. And while I appreciate Mr D may not have been an expert in insurance matters J was a commercial business which had had cover in place through FSB for three years. I think it's clear Mr D did have some understanding of that cover because he sought a quote from FSB in September 2021 for the addition of professional indemnity insurance which didn't form part of J's existing package.

I can also see that prior to renewal in 2022 FSB's records show it called Mr D on three separate occasions and left messages but didn't receive any response from him. I appreciate the reason for those calls appears to have been to check whether J would be renewing its policy but if Mr D had contacted FSB there would have been an opportunity for a wider discussion of J's insurance requirements if required.

Taking all of that into account I'm not persuaded FSB was at fault in the sale or renewal of these policies. And in any case I think the nature and extent of the cover it had taken out would have been clear to J from the information (in particular the 'Demands and Needs' statement and policy schedule it was provided with). So, even if there was a failing by FSB, I don't think there's a causal link between that and J not having more extensive cover in place.

In addition, I don't think even if J's policy had included personal accident cover that would have provided cover for the issues which impacted Mr D. That policy would only have provided cover in the event of injury caused by accidental means. But there's no suggestion in this case Mr D's inability to work resulted from an accident. And while the policy could have included cover for business interruption that would only have applied where there was loss of income as a result of damage to property used at the business premises.

It's not clear to me FSB had a policy available that would have covered Mr D's situation at all. But for the reasons I've already explained I don't think it needed to draw that to J's attention because I think it took reasonable steps to identify J's 'Demands and Needs' and that didn't identify a requirement for cover which went beyond the policy FSB then recommended.

Mr D has also suggested the policy did include cover for wages. I appreciate his policy schedule includes an 'insured amount' for wage roll. But it's not obvious to me the policy he took out provides any cover for loss of wages in the circumstances which affected him. However, if Mr D believes it does then that's something which he can raise with the insurer of the policy; it wouldn't be something for FSB to address in any case.

My final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 21 February 2025.

James Park
Ombudsman