

The complaint

T, a limited company, complains Arthur J. Gallagher Insurance Brokers Limited (AJG) mis-sold it a business protection insurance policy. T is represented by its director, Mr B.

What happened

In 2021 T took out business protection insurance through AJG which included public liability cover. However, at renewal in 2022 (and in 2023) the public liability element of cover wasn't included. AJG accepts it failed to identify and advise T about that (and incorrectly told it cover was included). AJG says it would have looked to indemnify T for any public liability claims that arose during this period. And it offered to pay T £150 in recognition of the inconvenience it had been caused. T thought the premiums it paid should be refunded.

Our investigator agreed AJG had been at fault. However, he didn't think a refund of premiums was fair. The policy provided cover for other insured perils and so had been of benefit to T. And while he accepted Mr B had been distressed on learning cover wasn't in place it was only the impact on T he could consider. There was no current evidence of a financial loss to T as a result of AJG's error. And he thought the £150 AJG had already agreed to pay was enough to recognise the inconvenience T had been caused.

Mr B didn't agree. He said he wasn't happy with the assumptions and arguments that had been made. 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.

The relevant rules say for an advised sale like this those selling insurance need to take reasonable steps to ensure the insurance is suitable for their customer. I don't think it's in dispute AJG didn't meet those responsibilities in this case. T appears to have had a need for public liability insurance which was included in the policy it first took out. But that wasn't included at subsequent renewals. And AJG wrongly told T cover was in place.

I've gone on to think about the impact of that error on T. I understand it hasn't made a public liability claim during the relevant period. So there isn't a direct financial loss to it as a result of what AJG got wrong. If a claim is subsequently made I'd expect AJG to appoint a loss adjuster to consider that against the terms of the policy which should have been in place and pay any amounts the loss adjuster considers are due.

T says the premiums it paid for the period cover wasn't in place should be refunded to it. But I don't agree that's a fair outcome. T appears to have had a need for the policy that was provided so would likely have taken that out regardless of the failing by AJG. And the premium it paid reflected the cover it actually had (so T hasn't paid for public liability cover that should have been in place and wasn't).

I accept Mr B will have been distressed on learning public liability cover wasn't in place (particularly as he'd been told by AJG it was). But as our investigator explained that isn't something we can make an award for in this case. That's because this complaint isn't one he's making in his own right but as representative of T. And it's the 'eligible complainant' in this case. That means it's only the impact on T I can consider not any distress Mr B may have been caused personally.

And a limited company isn't a 'natural person' so can't suffer distress in the way an individual can. It could be caused inconvenience and I accept it will have been in this case. But taking into account the nature and extent of that inconvenience I'm satisfied the £150 AJG has already offered to pay is sufficient to recognise the impact on T of what AJG got wrong.

My final decision

Arthur J. Gallagher Insurance Brokers Limited has already made an offer to pay £150 to settle this complaint and I think this offer is fair in all the circumstances. So my decision is that AJG should pay T £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 22 April 2025.

James Park
Ombudsman