DRN-5472003

The complaint

R and R complain that Ten Insurance Services Limited, failed to provide them with the correct information about their commercial insurance policy at the point of sale.

Following a fire at the insured property, the underwriter of the policy (company A) declined to provide cover and voided the policy due to non-disclosure and non-compliance with the policy terms.

R and R feel the failures to provide information resulted in them being unable to comply with the underwriters terms of the policy. They say the statement of facts was not provided and because of this, they could not have made a misrepresentation about the material facts.

What happened

The background to this complaint is well known by both sides. The fire which caused the loss took place in early 2019. Since this point, both sides, with the assistance of representation, have been in dispute about the actions of the broker at the time of the sale and whether they did what they needed to.

Both sides have conflicting opinions on the actions of the broker and with both having set this out in detail a number of times, I'll focus on the outcome of my decision over repeating these in detail here.

Our investigator looked at this complaint and didn't think it could be demonstrated the broker had failed to do what they needed to, when the policy was sold. They explained that R and R as commercial customers had a duty under the Insurance Act 2015, to make a fair presentation of the risk. They didn't think this had happened when the policy was taken out.

They also explained why they were persuaded a conversation about the cover had taken place. They felt it was likely R and R where aware of the cover being put in place and they didn't think it could be evidenced that the broker, didn't do what they needed to when the policy was arranged.

R and R's representative responded to disagree with the outcome reached. They highlighted the relationship between the broker and R and R is central to this complaint. This close relationship meant R and R trusted the broker to provide the relevant information to the underwriter and that they had all of their business interests covered with adequate insurance for their needs. They feel the brokers denial of being a close family friend has been evidenced to be untrue and this should cast doubt on the testimony provided. In contrast, R and R and their version of events should be given more credence.

It was denied that R and R had any copies of the full policy wording until after the fire. This means there was no knowledge of the policy conditions that needed to be complied with. When questions were asked about the security measures, the broker did not explain what was needed in a telephone conversation and failed to provide the information as asked.

The investigator said the notice of disqualification became known because of a claim being made on another policy. But R and R say they had informed the broker of the previous bankruptcy and disqualifications in 2014, when they first moved their business to Ten Insurance. The later notice was not new and despite it being clear the broker was aware of this information from late February 2019, the broker did not declare this when a subsequent policy was taken out for another property where R was a director in April 2019.

R and R also said when the meeting about the insured needs took place in November 2018, that the broker only brought one piece of paper with two quotes on it. Although it was explained the policy underwritten by company B was not suitable, the broker continued to apply for this. This couldn't be complied with and R and R states this had been made clear in the meeting – with no power being available in the property to allow for CCTV to be installed. This meant the subsequent policy, in place at the time of the fire, was arranged but no details were provided about the policies terms and conditions or endorsements. It was this failure that meant R and R were unable to comply with the requirements.

Our investigator said their opinion remained unchanged. They said despite the highlighted relationship between the parties, it didn't remove R and R's obligation to make a fair presentation of the risk. They felt it had been evidenced through the previous actions of R and R that they were aware of the policy conditions. They highlighted needing to provide photos of the property in March to ensure the fire and explosion cover was reinstated – this happened on 22 March 2019. And the fact the initial policy arranged was cancelled because the policy conditions couldn't be complied with, demonstrated that information on these had been provided.

R and R did not agree with the outcome and asked that the case be referred for 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.

I've decided not to uphold this complaint, I know R and R will be disappointed by this, but I'll explain why I am not persuaded that the broker did anything wrong when the policy was sold in late 2018.

It is important to set out ahead of this as our investigator did, that the loss claimed for within this complaint is substantial and in excess of the award limits in place for this Service. Based on the time of the act or omission complained about and the date this complaint was referred to us, the limit applicable is £195,000. While we could recommend an award above our limit, Ten Insurance could not be bound to a higher amount. This was highlighted to R and R and the complaint has continued with it being aware of this.

The crux of this complaint is whether the broker, acting on behalf of Ten Insurance, did all that they needed to when the policy was incepted, and when information was later provided to them and information requests made, did they do what was needed here.

R and R say the broker was a close family friend and business was done with trust and an expectation that they would look after their business interests. I appreciate the broker has denied the closeness of this relationship, but I think it has been evidenced there was a personal relationship between the broker and R and R. But this being demonstrated does not persuade me that the broker failed to carry out their role as expected.

Policy inception

Ten Insurance and its broker, when providing advice about the policy and arranging this for R and R, needed to ensure it was provided a recommendation which was suitable to their demands and needs. And with R and R being a commercial customer, it needed to explain the duty on it to disclose all circumstances material to the policy and the consequences of failing to do this.

It is not disputed, when R and R's policy for the risk address was due to renew, a meeting took place with the broker and R and R in November 2018. At this meeting, R and R say the broker came with very limited information and from the information that was presented, they made it clear that one of the policies proposed by the broker was not suitable. They say despite this being made clear at the meeting, the policy was arranged with Company B. This later needed to be changed and the policy with Company A was arranged and incepted from the end of December 2018.

I accept this first policy was not suitable and later changed. And while there is a disagreement about when the broker was first notified of this not being suitable, it is clear R and R were aware that the policy with Company B was not suitable to their needs. This was because they could not comply with the requirements of this insurance. This supports the fact the broker shared the information they needed to.

When the policy with Company A was recommended, a demand and needs statement was included with the insurance quotation letter, dated 21 December 2018 and was addressed to R and R.

R and R say they did not receive the welcome letter, but the statement sets out that a recommendation was made at this point to insure the property with Company A. This was based on the analysis of the market and available insurers from Ten Insurances panel.

This also set out that R and R had an obligation on them under the Insurance Act 2015.

"Where we arrange insurance wholly or mainly for the purposes related to your trade, business or profession, you have a duty under the Insurance Act 2015 to make a fair presentation of the risk. This means that you must disclose every material circumstance which you and/or your senior management and/or anyone responsible for arranging your insurance know or ought to know. Alternatively, you must disclose sufficient information which would put the insurer on notice that it needs to make further enquiries for the purpose of revealing those material circumstances."

As I've said, R and R say this was not received, but this was correctly addressed and sent after it was said a conversation with the broker took place to explain the policy with Company B was not suitable. So I am persuaded it was sent as needed by Ten Insurance.

It became apparent once the policy was incepted, that R and R had previously been disqualified from being a company director. This is something they say had been explained to the broker a number of years previously, but this contradicts what the broker said when the information was received.

The information used within the applications for the policy taken out by the broker, indicates there was no knowledge of the previous financial history issues. And when emails were received with this information, it was passed on within Ten Insurance. This demonstrates to me that the broker would have taken similar steps if notified sooner. Based on this, I am not persuaded it was disclosed to the broker at the point of sale or sooner and the obligation was on R and R to provide a fair presentation of I cannot see they shared information which was relevant to this.

Knowledge of the policy terms and obligations

The insurance claim made following the fire in March 2019 was declined and the policy voided because of breaches of the following requirements:

- Combustible materials at the Property
- Inspections and security at the Property
- Intended work at the Property
- Financial background
- Previous incidents at the Property

R and R say it was not aware of the requirements on them because they had not received the policy documentation or demands and needs statement. Without this, it was not able to comply with its obligations. As I've said, I think they should have been aware of the duty to provide a fair presentation of the risk, the demands and needs statement was sent to the correct address with the welcome letter and I'll explain why I am persuaded R and R were aware of their obligations under the policy with Company A.

In February 2019, R and R notified the broker that there had been a break in at the property. They didn't want to make a claim and the broker said he asked for more information about the break in to notify the underwriter. Soon after this, a member of R and R's family emailed the broker and asked for copies of the policy documents. This was responded to with a copy of the policy schedule being provided. R and R say this didn't provide the full policy wording and they were not aware of the obligations on them from this.

I cannot know what was said with any phone calls and each side presents a different version of events here. So, I've relied on what is known, it is not disputed the policy schedule was sent. And while this does not provide the same level of detail as the policy wording, it does confirm there are a number of endorsements on the policy itself. I think this provided notice to R and R of these and it could request more information if it was unsure on what it needed to do to comply with these.

In March 2019, the underwriter contacted Ten Insurance to notify it that the survey requirements of the policy hadn't been complied with and until this was done, the fire and explosion peril cover on the policy was to be removed with immediate effect.

When notified of this by the underwriter, the broker contacted R and R and asked for colour photos of the property to be sent ahead of the survey being organised. This was done and within two days, this cover was reinstated. And while email chains indicate the underwriter has asked Ten Insurance to follow this up in January 2019, soon after the policy incepted and this was not passed on to R and R, the actions taken to rectify this when it was realised this hadn't happened resulted in the cover being put back in place.

This happened shortly before the fire and demonstrated that when provided with information, the broker acted on this and reached out to R and R as needed to support with the property remaining on risk.

When information is limited or conflicting, as it is with this case, I need to decide what I think is more likely to have happened on the facts presented.

Overall, on this complaint, I've not seen enough to demonstrate to me that R and R were not provided with the statement of facts and the welcome letter for the policy ahead of its inception.

I think R and R were aware of the policy terms and endorsements. A fair presentation of the risk was not made and it was their obligation to do this, not the brokers. It follows, that I am not persuaded it would be fair to say the broker and their actions, resulted in R and R not being able to comply with the policy terms and conditions. Nor do I think the broker failed to provide information to R and R when asked.

My final decision

For the reasons I've set out above, I do not uphold R and R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask R and R to accept or reject my decision before 19 September 2025.

Thomas Brissenden
Ombudsman