

The complaint

Mr T's complaint is about a claim he made on his Markel International Insurance Company Limited trading as Markel Legal Expenses Insurance ('Markel') landlord's legal expenses insurance policy, which Markel declined to cover.

Mr T says Markel treated him unfairly.

What happened

Mr T contacted Markel in May 2023 to enquire about how to claim for legal expenses in relation to a dispute with a tenant. He was sent a claim form to complete.

Nothing further was heard by Markel from Mr T until February 2024. At that point he said he was finalising his claim form pending receipt of a final invoice from his Solicitors.

Following receipt of the claim form and some further discussion with Mr T, Markel declined his claim. They said they couldn't provide cover for legal costs incurred without their consent.

Unhappy Mr T complained to the Financial Ombudsman Service. Our investigator considered his complaint and concluded it should not be upheld. Mr T 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 don't uphold Mr T's complaint for the same reasons set out by the investigator. Before I explain why, I wish to acknowledge the various submissions Mr T has made. Whilst I've read and considered everything he's said, I won't be addressing it all. That's not intended to be disrespectful. Rather it's representative of the informal nature of the Financial Ombudsman Service. Instead, I'll focus on the crux of Mr T's complaint, namely whether Markel were entitled to decline to pay his legal costs in the way that they did.

The starting point is the policy terms. They say that Mr T is not covered for any costs incurred without or, in excess of Markel's written consent. That's a common exclusion in legal expenses insurance policies and we don't consider it to be unfair. The terms of the policy require various conditions to be fulfilled in order for cover to engage, which Markel were entitled to validate before agreeing to fund Mr T's costs. In this case, Markel didn't have the opportunity to do that. Rather they received a claim for legal costs after Mr T had taken action himself and instructed his own Solicitors. In those circumstances we wouldn't expect Markel to be obliged to cover those costs.

Mr T has said he thought he did make a claim on the policy and that Markel haven't been prejudiced by receiving a bill for costs at a later stage. I don't agree. Mr T did discuss the potential of making a claim with Markel and was sent a claim form to do this, but he didn't send it back for 9 months, and only after he'd incurred costs himself. Whilst I understand that

discussions were ongoing between the tenant and Mr T at that time, I don't think this precluded him from making a claim on the policy. And if Mr T wanted cover for all of his costs, he would have needed to make a claim before he incurred any legal costs himself.

I turn now to the issue of prejudice. In this case Markel have been denied the opportunity to establish whether the claim fell into policy coverage, either in terms of whether the policy conditions relating to the rent arrears and tenancy requirements were fulfilled as well as whether reasonable prospects of success existed. The fact that Mr T might have been successful in settling part of his claim isn't evidence of the latter- a contemporaneous legal opinion is. And Markel, as funders haven't been able to dictate how they wanted the claim conducted, as I would expect. Rather they're now being asked to pick up a bill with no involvement at all. I think that it's clear in this case that Markel have been denied the opportunity to establish whether cover was available from the outset and if so whether reasonable prospects of success existed in accordance with the policy terms. In addition they've been prevented from influencing the costs incurred. For this reason, I think Markel have clearly been prejudiced.

As I understand it Markel did offer to consider the claim further when it became clear that there were further discussions ongoing between the tenant and Mr T. I think this was reasonable in the circumstances. I appreciate why Mr T didn't accept this offer given the late stage they'd reached in negotiations but that doesn't mean that Markel needed to do anything more.

Finally, I know Mr T feels he wasn't provided enough information to understand what he needed to do to make a claim when he bought the insurance. Markel didn't sell Mr T the policy so it's not responsible for this. As such, his complaint about this should be directed to the seller of the insurance.

My final decision

For the reasons set out above, I don't uphold Mr T's complaint against Markel International Insurance Company Limited trading as Markel Legal Expenses Insurance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 9 September 2025.

Lale Hussein-Venn
Ombudsman