

## The complaint

Miss M has complained that Advisory Insurance Brokers Limited trading as Towergate Insurance mis-sold her a professional indemnity insurance policy.

## What happened

In July 2024, Miss M purchased professional indemnity insurance through Towergate. The policy was set up start retrospectively, with a start date of July 2022.

Shortly afterwards, Miss M asked the insurer to cover a claim for representation in a complaint made to her professional body. The insurer refused cover and voided the policy, as it said she had not disclosed the complaint giving rise to this claim when taking out the policy.

Miss M is very unhappy about this and complained to Towergate that it had mis-sold the policy to her. She says that Towergate did not explain the different types of indemnity cover available; did not tell her what she needed to disclose and did not ask her the right questions that would have allowed her to disclose the client complaint in question.

Towergate does not accept it did anything wrong. It says that Miss M completed a proposal form for the policy before speaking to it. The form asked for details of any claims or complaints made and Miss M had only disclosed one from 2022 and not the complaint that gave rise to the claim she wants cover for, which was first made against her in 2021.

During its consideration of the complaint, Towergate said it realised the cover should have been backdated to 2021. It asked the insurer to do this but it would not agree. Towergate offered £250 compensation for this. However, it says this error on its part made no difference to the insurer's decision, as even though the complaint against her was made she had not disclosed what she needed to.

Miss M remained unhappy with Towergate's response to her complain, so referred the matter to us.

Miss M says she was asked about previous claims and answered this correctly. She did not realise she needed to disclose complaints that had not resulted in a claim for money from her. Miss M says she was covered at the time of the treatment in question with another insurer (although I understand it won't meet the claim as it only covers claims made during the period of cover) and she had no reason to change other than shopping around.

Miss M says that when trying to get alternative cover after this policy was cancelled, the insurers have provided a form detailing that she needs to enter information about previous claims, complaints, hearings, restrictions, suspensions and so on, which makes clear what she needs to disclose.

One of our Investigators looked into the matter. He thought the £250 offered for the error regarding the start date of the policy was reasonable. He did not think that Towergate had made an error in the sale of the policy as he was satisfied the proposal form was clear and it

was allowed to rely on what Miss M had said in the form. The Investigator did not consider that the failure to disclose the previous claim was due to any error on Towergate's part.

Miss M does not accept that Investigator's assessment, so the matter has been passed to me.

### **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 do appreciate the significant implications of this matter for Miss M. However, having considered everything carefully, I do not intend to require Towergate to do anything further. I will set out my reasoning below.

The Insurance Conduct of Business Sourcebook says that those selling insurance have a responsibility to provide clear, fair and not misleading information about the cover being provided, in order to put the customer in a position where they can make an informed choice about the insurance they are buying. If the seller is also making a recommendation or advising a customer to take a particular policy, then they should specify the customer's demands and needs and propose a policy that's consistent with them as far as is reasonably possible and take reasonable care to ensure the suitability of its advice.

Towergate has confirmed that this was an advised sale, so it had an obligation to take reasonable steps to ensure the suitability of its advice to take this policy. I consider that this would include asking the applicant questions in order to gather the information required to assess if a policy is suitable.

Miss M says that Towergate did not explain the different types of indemnity cover available. She has referred to the fact that some indemnity policies provide cover for claims made in the period of cover (even if the treatment complained about happens earlier) and others that provide cover for claims that arise during the period of insurance only.

Miss M says she had cover in place at the time of the treatment complained about (which I assume, although it is not clear, will not cover the claim, possibly as it covers claims made during the period of cover only). Given this, I can understand why Miss M thinks she is now in an unfair position. She also says it should have discussed run-off cover. However, she approached Towergate in 2024 to apply for this policy and the cover was arranged to start retrospectively. The insurer refused the claim and voided the policy due to non-disclosure of a complaint against Miss M in 2021. This does not mean the policy itself was unsuitable. And I have not seen any reliable evidence that Towergate should not have recommended or sold the policy it did.

In addition, even if this is not correct and the policy was unsuitable, any other policy would have required the same disclosure from Miss M, so I do not think that her position would be any different now, even if another policy or type of cover had been provided.

Miss M also says the policy was mis-sold to her by Towergate because it did not ask her the right questions to have elicited disclosure of the 2021 complaint made against her.

Towergate says Miss M submitted a proposal form to it and it later had a phone conversation with her before the policy was set up. This has not been dispute, as far as I am aware. Towergate does not have a call recording or note of what was said in the telephone conversation.

I have therefore considered the form Miss M completed before speaking to Towergate. It said:

*“Claims history*

*Please list all claims made against the insured and all circumstances that could give rise to a complaint and/or claim during the last 10 years...”*

I can see that Miss M entered the details of one complaint made against her in November 2022 and said she had refunded the client. Miss M did not provide information about the complaint made in 2021, or any other complaint.

In my opinion, the form is sufficiently clear and unambiguous and Towergate was reasonably entitled to expect Miss M to enter details of any claim and / or complaint, whatever the outcome, to have been disclosed here. It was also therefore entitled to rely on her answer to this clear question. I have seen no evidence that it misled her or that she otherwise disclosed the previous complaints. I am therefore satisfied that Towergate was entitled to present this application with the disclosed information on the form to the insurer.

I can see that Towergate accepts it should have asked for cover to be backdated to 2021 instead of 2022. I agree that, even if this had been done, it would not have made any difference to the insurer's position and therefore Miss M's position now. I say this because even if the policy had been backdated to 2021, the claim would still have been rejected and the policy voided as Miss M did not disclose the 2021 complaint.

Towergate has already offered £250 compensation for this error. I think that is reasonable. I do not intend to require it to do anything further.

**My final decision**

Advisory Insurance Brokers Limited trading as Towergate Insurance has already made an offer to pay Miss M £250 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Advisory Insurance Brokers Limited trading as Towergate Insurance should pay Miss M £250.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 14 October 2025.

Harriet McCarthy

**Ombudsman**