

The complaint

B, a limited company, complains about the sale of a property owners insurance policy by Butterworth Spengler Commercial Limited trading as Butterworth Spengler Insurance Brokers ('Spengler').

B's complaint is brought by Mr S, but I shall refer to all submissions as being B's own for ease of reference.

B says Spengler's failure to sell it an insurance policy that covered it for all of the land it wanted to insure led to it becoming liable for over £70,000 in respect of a third party liability claim.

What happened

In 2020 B was set up by Mr S, a director. As part of a deal Mr S agreed with a former business partner, B acquired a suite of offices at a particular site which included a nursery, an escape room and open land used for car parking and events.

B instructed Spengler to put cover into place for the properties it was taking over. Spengler was the broker of the business Mr S, and his business partner previously ran together and had placed insurance for the properties in question in previous years.

Spengler told B that it had all of the risk information for the properties, including rents and tenants so it could provide a quotation based on that information. The quotation and statement of fact was duly supplied together with a report. These documents set out the type of insurance B was buying, and the property addresses the insurance related to. B went ahead and purchased the insurance from Spengler accordingly.

Later that year a third party claimed she'd been injured on B's land when attending a car boot sale. She brought her claim against B in respect of this three years later. B says that when it made a claim on its property owner's insurance policy, it found that there was no cover for the land in question. B feels Spengler are responsible for this and should have sold it a policy that covered it for all of the land it was asking to insure.

On the other hand, Spengler says it sold insurance to the former business that owned the properties in question each year from 2014 to 2019 and that the insurance it sold B was identical to this, as requested by B. Spengler also says that before 2020, the business running the car boot sale that the third party was injured at had previously bought insurance to cover them for any claims of the type made by the third party and as such it was not appropriate for them to sell B further insurance to cover this. Spengler says the reason B's insurer declined the claim was because B did not disclose the use of the field the car boot sale was held on was for commercial activities and Spengler were never asked to provide a policy that covered this.

Our investigator considered B's complaint and concluded it should not be upheld. B does not 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 B's complaint. Before I explain why I wish to acknowledge the volume of submissions both parties have made in this complaint. Whilst I've read everything they've 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 B's complaint, namely whether Spengler mis-sold insurance to it and if so, whether Spengler needs to do anything further to put things right.

The policy was sold on an advised basis. That means Spengler had to provide B with enough information to allow it to decide whether to take out the insurance Spengler was offering, and it also needed to ensure it was suitable for B's needs and circumstances.

From what I've seen B is relying on the request it made to Spengler for insurance to be put in place for the property it was acquiring which it described as the site at the relevant road together with the nursery, escape room and open land used for car parking and events. I've looked at the email B sent to Spengler about this. That email explains that it is acquiring these properties but goes on to say:

"Since you already insure these properties it would make sense to continue the excellent relationship.... Ideally we would simply transfer existing policies to (B) but maybe you will need a new proposal. In any event could you please let me have a summary of existing cover and where we are with payment of premiums etc?"

Spengler maintains that the instruction it received from B was essentially to sell it the same type of insurance that applied to these properties previously. And looking at what B said, I agree that this appears to be the case. I appreciate that Spengler did not provide B with a summary of the existing cover, but I don't think this would have made any difference in this case. I say so because Spengler provided B with a detailed quotation and statement of fact together with a report setting out the type of cover B was being offered and what it related to. In particular the demands and needs statement described the type of cover being sold related to B as a "property owner" and directed B to check the activity it carried out was accurate and fully encompassed its commercial activities. It also set out that:

"(Spengler) have also provided information within the report which is already known to it from your previous insurance arrangements with us and we would ask you to check that the information is and remains accurate and advise us immediately of any necessary changes to this information as it forms part of your fair presentation to insurers."

In this case B's claim was turned down by its insurer because the activity being conducted on the field in question was commercial and this was not presented to them when B took out insurance. I don't think it can be inferred from B's reference to acquiring "open land used for car parking and events" can be said to equate to a request for cover for commercial activities on the land. And given B was provided with detailed documents setting out what the cover extended to, including the areas of land it pertained to, I don't think their providing a further summary of cover would have made any difference to B's decision to take out cover specifically commercial activities on the land in question.

I've also taken into account what Spengler has said about the open land being tenanted by another and the fact that that business had previously taken out insurance which extended to commercial activities on the land in question. From what I've seen Spengler were approached by the tenant for cover for this purpose in 2020, but they were unable to provide

it with a competitive price. As such Spengler maintain that the tenant said it would place insurance through a different specialist broker. It's unfortunate that the tenant did not have insurance in place at the time, but from what I can see Spengler had not been asked to provide B with any insurance for commercial activities on the land in question and the information it had suggested that this was already covered. As such it would have been inappropriate for Spengler to sell C a policy that was already covered elsewhere. We wouldn't consider such a recommendation to be reasonable in those circumstances particularly because B might have been paying an additional premium for something it might not have been able to claim on because the risk was insured elsewhere.

Overall, I think Spengler provided B with enough information to enable it to determine whether the cover was what it wanted and based on the information Spengler had, I don't think the policy it sold was unsuitable. Had B specifically told Spengler it wanted cover for commercial activities on the land in question, I might have thought otherwise, but that wasn't the case here. And B's reference to acquiring that land isn't in my view sufficient to support that Spengler did something wrong.

B has said that Spengler didn't point out that the open land was not covered by the policies previously in place. But I don't think B needed to do this. The declinature by the insurer was based on commercial activities on that land not being disclosed to them. B didn't ask for cover for this. And given Spengler thought C's tenant was seeking cover for this elsewhere, I don't think it needed to convey to B that there was no cover in place for something that had historically been insured by the tenant and appeared to continue to be. There wasn't therefore a gap in cover, as far as Spengler was concerned that it ought to have highlighted to B, as contended by B.

If as B contends it wanted to have its own cover for commercial activities for this land, then I would have expected to see a clear and specific instruction about this to Spengler. In this case the reference to the land it had acquired is not in my view enough to amount to that. As a commercial entity the onus was on B to express the activities it wanted to carry out on the land itself to Spengler. And given this sort of activity was not something the previous owner of the land had been insured to carry on and the request was essentially for cover to continue, I don't think it was unreasonable for Spengler to sell the policy it did to B.

My final decision

For the reasons set out above, I don't uphold B's complaint against Butterworth Spengler Commercial Limited trading as Butterworth Spengler Insurance Brokers.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 12 November 2025.

Lale Hussein-Venn
Ombudsman