

## The complaint

A limited company, which I will call T in this decision, had complained about Markel International Insurance Company Limited's rejection of a claim under its commercial legal expenses insurance policy.

Mr M, as director of T, has brought the complaint on its behalf.

## What happened

T held a sponsorship licence allowing it to sponsor people to work in the UK. In October 2024, T received a suspension notice from the Home Office regarding its sponsor licence. T contacted the legal advice line provided with its policy with Markel about this. T says it was told that Markel could not assist with sponsor licence matters and did not therefore pass the matter on to its claims team.

T says that, due to the statutory deadline, it had to urgently instruct a solicitor to respond to the Home Office. In mid-November 2024, the licence was reinstated with an action plan and the licence was fully reinstated in March 2024. In early January 2025, T submitted a claim for its legal costs to Markel. T says it chased Markel several times but did not receive a response to the claim until end July 2025.

Markel declined the claim as it said the policy only provided cover for statutory licences and it did not consider a sponsorship licence to be a statutory licence. Markel also said the policy terms required written consent for costs to be covered. So, the claim would not be covered in any event, as it had not consented to T incurring the costs it had. Markel also says T was told by the advice line that it could only provide general advice and T should contact Markel to check if there is cover under the policy and it did not do so before incurring the legal costs claimed for.

T disputed this and raised a complaint.

In response to the complaint, Markel accepted that a sponsor licence is a statutory licence, so the policy could potentially provide indemnity. It apologised for the error in relation to this. However, Markel said the policy requires that claims be submitted promptly and that it will not cover legal costs incurred without its consent. Markel said in this case the claim was not submitted until after T had incurred legal costs in getting the licence reinstated.

T was not happy with Markel's response, so referred the matter to us. T says that it did contact Markel before incurring costs and relied on what it was told by the helpline, so any lack of consent about the legal costs incurred is due to Markel's failures.

In addition, T says that Markel can only reject a claim for late notification if it has suffered actual prejudice due to the delay and there has been no prejudice in this case, as the licence was reinstated and therefore the matter was successfully resolved. T wants to be indemnified for the legal costs it incurred (over £30,000), along with a fee it paid to the Home Office and interest. It has also asked for compensation for distress and inconvenience, and for Markel to review its procedures, so that policyholders are not mis-directed about cover for

sponsor licences in future.

One of our Investigators looked into the matter. He thought it was clear from the notes of the call with the advice line that T was told they couldn't assist with formulating a response to the Home Office but that it should contact Markel to confirm if cover was in place, in which case it would be able to help. The Investigator said that essentially they referred T to Markel's claims team. However, T did not contact Markel to submit the claim until 9 January 2025, when costs had already been incurred.

Initially, the Investigator said that Markel should nevertheless pay the legal costs, as T had to act swiftly given the deadline with the Home Office and because as Markel rejected the claim incorrectly when it was made in January 2025, on the basis it was not about a statutory notice, it is likely it would have rejected it for the same reason even if it had been made sooner. However, after further information provided by Markel, the Investigator changed his mind. He accepted that it was not possible to assume what would have happened if the claim had been submitted in time and that the decline due to it being a statutory licence was a one-off and it had provided enough evidence to establish that it was prejudiced by the late notification of the claim.

The Investigator also considered that there had been an unreasonable delay in Markel responding to the claim, which was almost six months later, and didn't respond to update requests from T either. While the claim was ultimately declined, he said a six month period of uncertainty over claim coverage would be inconvenient for any business and it had to spend additional time dealing with this issue. The Investigator recommended that Markel pay T £150 compensation for this.

T does not accept the Investigator's assessment. It says Markel has not shown actual prejudice, as opposed to a loss of hypothetical opportunity. Markel has not evidenced that its earlier involvement in the case would have resulted in a different strategy, outcome or lower costs. And it has not evidenced that one of its panel solicitors would have realistically been instructed within the required timeframe or that they would have achieved the same outcome at a reduced cost. T says it is therefore unfair for Markel not to reimburse its legal fees, as this is the precise risk the policy was meant to protect against.

As the investigator was unable to resolve the complaint, it 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.

The relevant part of T's policy states the following:

*“Regulatory compliance What is covered?”*

*We will pay costs for your:*

*Licence appeals*

*Appeal against a decision taken by the relevant authority to suspend, revoke, alter or not renew an existing statutory licence you need to carry out your business activity as stated in your policy schedule.”*

However, T's cover, like all insurance policies, is subject to various terms and conditions. The terms and condition that Markel has highlighted as applying in this case says follows:

*“You must tell us as soon as possible when you become aware of any cause, event or circumstance which does or may involve you and which has given, or may give rise to a claim, dispute, legal proceedings or tax investigation.”*

And:

*“We will not cover you for ... Costs/compensation incurred without or in excess of our written consent”*

T says it did notify Markel of the matter by contacting the legal helpline but was told Markel could not assist at all. I have considered this carefully. I do not agree that T was effectively sent away by the helpline. I have read the note of that call in October 2024. The adviser record that they told T they could not review the documentation from the Home Office and T would need a solicitor to review it properly and should contact Markel to check there is cover and then, if there was cover, it could come back to them, or if there was no cover T could go back to them but would have to pay privately. I think it therefore made clear T should contact Markel to see if there was cover for a claim to properly consider the documentation and advise. I do not therefore consider that the delay in reporting the claim was due to anything done wrong by Markel, or its agents.

The claim was submitted on 9 January 2024, so was some time after T became aware of the event that gave rise to the claim and after it had incurred costs without Markel’s consent. This was therefore a breach of the above condition and the exclusion clause is triggered.

However, both we and the insurance industry generally have long held that it is unfair and unreasonable to reject a claim on the basis of breach of a policy condition, unless breach of the condition has caused some prejudice to the insurer. The Financial Conduct Authority rules regarding insurance claims handling also provide that an insurer should not unreasonably reject a claim by relying on technical breaches of condition that are not materially connected with the circumstances of the claim.

I have therefore considered carefully if it is fair and reasonable for Markel to rely on this clause to reject the claim in the particular circumstances of this case.

T says Markel was not prejudiced, as it was successful in having the licence reinstated and it says there’s no evidence that Markel would have been able to appoint one of its panel solicitors to act and obtain the same outcome, in the same time and for any less than his solicitors charged.

I do not think it is difficult for Markel to demonstrate it has been prejudiced by not being aware of the claim until January 21024. Markel did not have the chance to obtain its own legal opinion, confirm compliance with other policy terms, or to set reasonable fees. This is not hypothetical – it did not have the opportunity to do any of these things. I do not consider that it needs to go through that exercise now to establish exactly what it would have done had it had that opportunity. I think it is enough to establish prejudice that it did not have this opportunity at all. Markel has also said there was 20 days to respond to the Home Office and it is well-used to dealing with urgent claims and it would have made the decision about cover in that time frame. Legal expenses insurers like Markel are used to dealing with urgent legal claims and I am not persuaded that T had no other choice but to go ahead with the matter without notifying Markel.

While I note Markel did reject the claim partly on the basis the licence was not a statutory licence, which was incorrect, this didn’t delay the claim process or T in making the claim. The majority of the costs and work had been done prior to submitting the claim. I am not able to make any order or direction that Markel change its processes or impose training about

this. However, I note that it has already said it will provide feedback to the individual concerned and has apologised. I think this is reasonable.

Finally, I have considered the time taken by Markel to deal with the claim. There were avoidable and unreasonable delays in responding to the claim. While the outcome would not have been any different and it did not impact the licence process, I do agree with the Investigator that the delay will have caused some inconvenience to T. I also agree that the sum of £150 is reasonable.

### **My final decision**

I uphold this complaint against Markel International Insurance Company Limited in part and require it to pay T the sum of £150 compensation for the inconvenience caused by its handling of this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 2 June 2026.

Harriet McCarthy  
**Ombudsman**