complaint

Mr and Mrs J are unhappy with the service they received from K D Meadows & Associates (KDM). They believe that the property they own shouldn't have been insured in the way it was.

background

Mr and Mrs J bought a leasehold property some years ago. They have changed the ownership between them on a couple of occasions, but have insured it throughout via KDM. This insurance provided cover for a share of the building that houses their leasehold property.

Recently, Mr and Mrs J have been advised by third parties that they should not have been insuring the building at all as it is the landlord's responsibility. Also that if they were to insure it, the insurer might not pay a claim as they might not be considered to have an insurable interest in the building.

During the course of our investigation into Mr and Mrs J's complaint, they provided a copy of the lease. This says that they are responsible for arranging insurance for the property. It also requires this to be done through a particular broker and that the policy should be in joint names with the landlord.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I will first address the issue of whether Mr and Mrs J should have insured the property. It is clear from the lease that they were required to do so. Therefore, KDM did nothing wrong in selling them an insurance policy that protected a portion of the building for the perils it did.

Mr and Mrs J have rightly pointed out that the lease required the landlord to be included on the policy. Whilst the policy that was put in place didn't do this, that doesn't mean that the policy was unsuitable for its purpose. The fact that the landlord was not a joint insured simply means that the landlord could not have made a claim on the policy, it would have to have been Mr and Mrs J. In addition, I don't think that KDM can be held responsible for this omission. It couldn't have known what the lease required Mr and Mrs J to do, unless they told it. It's clear from the correspondence in this case that they weren't aware until recently what their obligations under the lease were.

Overall, whilst I can understand Mr and Mrs J's concerns given the information they have been given by third parties, I'm not persuaded that KDM did anything wrong. Also, I'm satisfied that the insurance policy did need to be in place and that it didn't duplicate any other insurance cover. So I can't see any basis for a refund of the premiums paid to it to be made.

Mr and Mrs J have said they asked the insurer whether a claim would be paid under the policy; it said it wouldn't be able to come to decision until a claim was actually made.
Mr and Mrs J have interpreted this as the insurer saying that it wouldn't decide whether the policy was valid until a claim was made. I think that this is unlikely. An insurer can't confirm whether a claim will be paid until a claim is made because it needs to determine whether it is

for something that the policy covers. Hence the insurer's answer that it couldn't confirm if a claim would be accepted until it was made and the details known.

If the insurer had doubts about whether the policy was a valid one when it was speaking to Mr and Mrs J, it would have asked for clarification on the situation and if it wasn't valid, cancelled the policy. It clearly didn't cancel the policy. It doesn't appear from Mr and Mrs J's recollections that it asked for any information or investigations to be completed. As such, it doesn't appear that the insurer had any concerns about the policy at that time.

my final decision

My decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs J to accept or reject my decision before 15 February 2016.

Derry Baxter
ombudsman