

complaint

Miss M's complaint is about a claim she made on a legal expenses insurance policy she bought from Sennocke International Insurance Services Limited.

She took out the policy in December 2012 and tried to make a claim on it sometime later. The claim was declined because the underwriter of the policy said the claim had to be made during the period of cover and within 30 days of her becoming aware of the event that gave rise to the claim.

Miss M says that Sennocke didn't make her aware of this when she bought the policy and what this would mean for her. Because of this she says the policy was mis-sold.

background

I issued a provisional decision on this matter in February 2016, part of which is copied below:

"Miss M made a claim on the legal expenses insurance policy she bought from Sennocke sometime after that policy came to an end. The policy was a claims' made policy which meant that Miss M had to claim during the period of cover. So the underwriter of the policy declined to cover her claim.

After that policy expired, Miss M bought another policy in December 2013 but not from Sennocke. That was a claims occurring policy which meant that the insurer would accept a claim made outside the period of cover, provided the insured event happened within the period she was insured (but subject to other terms and conditions). This meant that Miss M effectively had a gap in being able to make any claims where the insured event occurred during the period of insurance for the policy that Sennocke sold to her, but where she reported the claim outside of that period. Her subsequent policy (December 2013-2014) wasn't a claims' made policy, so she couldn't claim under that policy either. Had it been, she should've been able to make a successful claim, subject to the remaining policy terms.

Miss M says Sennocke didn't tell her about how the claims' made term on the policy it sold her would affect her when it sold the policy i.e. if she didn't renew it with a claims' made policy on a continuous basis, any claims she made later might not have been covered. She also says that she's lost out as a result of this, because neither insurer would cover her employment claim. So she wants Sennocke to pay the costs she incurred in respect of her employment claim because she feels its actions left her exposed.

Our adjudicator considered Miss M's complaint and concluded that it shouldn't be upheld. She said this was because she also assessed Miss M's complaint about the subsequent insurer and reached the view that it should pay Miss M's claim. Because of this she thought Sennocke couldn't be held responsible for these costs. Miss M didn't agree so the matter has been passed to me to determine.

my provisional findings

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

Miss M says that she wasn't made aware that the policy she bought from Sennocke was a claims' made policy and that she needed to buy continuous cover on the same basis after this if she wanted to ensure there was no gap in cover. This only became clear to her when she needed to make a claim and it wasn't accepted by the underwriter of the policy sold to her by Sennocke, or her subsequent insurer.

Sennocke on the other hand says that it sold Miss M two policies for two consecutive years from 2011 on the same basis and that Miss M chose not buy her insurance cover from it in December 2013. Because of this it says it can't be responsible for the type of policy she chose to buy after her insurance expired. So it couldn't advise her in relation to ensuring she didn't have a gap in cover. It also says that the claims' made clause was contained in the policy wording so should've been clear to Miss M.

I'm not sure how this policy was sold to Miss M. But I can see that Sennocke wrote to her in December 2012 enclosing the policy documents. The letter says it's enclosing those terms 'as requested' by Miss M. So I assume an earlier telephone conversation or meeting took place during which Sennocke discussed the insurance with her.

Sennocke had a duty to give Miss M clear fair and not misleading information about the policy when it sold it to her. I haven't seen any evidence of what was discussed with Miss M when she bought the policy. So I don't know what Sennocke told her about it. But I don't think I need to decide this point. Rather, I have to decide whether Miss M was prejudiced by Sennocke's actions if it failed to give her the information about the type of policy she was being sold.

Our adjudicator originally assessed a separate complaint Miss M made against the subsequent insurance policy she bought in 2013. She thought that, that insurer should've covered Miss M's claim so she hadn't lost out as a result of anything Sennocke had done. But I made a final decision in respect of that case in November 2015. In that decision I said that I didn't think that insurer was obliged to cover Miss M's claim.

Miss M also made a separate complaint about a claim she made against the insurer of the policy sold to her by Sennocke. I made a provisional decision about that complaint in February 2016 in which I said that insurer should cover her claim. Because of this I don't think Miss M has lost out. So I don't think that Miss M has been prejudiced by any action that Sennocke has taken or that it needs to compensate her in any way. This is also because I can't say with any certainty that Sennocke didn't tell Miss M this was a claims made policy by drawing this to her attention when it sold her the policy. If it did, it's possible that Miss M might have forgotten about this when she chose to buy a different policy from a different provider a year later. Sennocke wouldn't have had any control over what type of policy she would've chosen to buy going forward. And it didn't have a duty to remind her to ensure she renewed her insurance on a claims' made basis when her policy came to an end. This is because Miss M chose not to continue buying insurance from it at that point.

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 asked both parties to provide any other comments or information they wanted considered in response to my provisional decision. Neither party has responded.

In the absence of any further submissions from either Sennocke or Miss M, I remain of the view that Miss M's complaint shouldn't be upheld.

my final decision

I don't uphold Miss M's complaint against Sennocke International Insurance Services Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 11 April 2016.

Lâle Hussein-Doru
ombudsman