

The complaint

Mr E's complaint is about a legal expenses insurance policy he purchased from Hastings Insurance Services Limited ('Hastings').

Mr E says the policy was mis-sold.

In this complaint Mr E is assisted by a representative but for ease of reference I shall refer to all submissions made as being Mr E's own.

What happened

Mr E took out a legal expenses insurance policy with Hastings alongside his home insurance policy. The insurance was sold through a price comparison website.

When he came to claim on the policy for a dispute with his employer, Mr E found it wasn't covered. The policy exclusion they applied was:

*"There's no cover for:
Costs if your claim is part of a class action, will be affected by, or will affect the outcome of other claims"*

As a result, he pursued a separate complaint to this Service against the insurer which was decided by another Ombudsman. That Ombudsman said the insurer was entitled to rely on the policy terms in turning down Mr E's claim.

The subject of this complaint concerns the sale of the legal expenses insurance policy. Mr E says that it wasn't of use to him because he couldn't claim on it when he needed it. As a result, he feels the policy was mis-sold.

Our investigator considered Mr E's complaint and concluded that it hadn't been mis-sold. Mr E doesn't agree so the matter has been passed to me to decide.

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 won't be upholding Mr E's complaint for broadly the same reasons set out by the investigator. I've explained why below.

In this complaint, Mr E has made a number of submissions, but not all of them are relevant to this specific complaint. As such I will only be addressing the points that relate to the mis-sale of the policy. No disrespect is intended to Mr E in this regard. It simply represents the informal nature of this Service.

The policy was sold through a price comparison website on a non-advised basis. That means Hastings had to give Mr E enough information to allow him to decide whether to take the insurance out, but it was up to Mr E to satisfy himself that it was suitable for his own

needs and circumstances.

Having reviewed the screen Mr E would have been presented during the sales process, I think he was given access to some information about the policy. That's because a number of policies were suggested to him. And when he called Hastings to query key cover the same day, he told the agent he had made up his mind about the cover he wanted to buy based on the information he'd seen.

I can't tell the exact detail of that information or whether he had access to the policy wording in full before he took it out. But I don't think that matters. Even if I decide that the information wasn't made clear to Mr E before he took the cover out, I also need to be satisfied that he would have done something differently like not taken it out at all or gone elsewhere for cover, had he known about the policy exclusion applied to his employment claim later on in the policy year.

Mr E has said that he wanted employment cover in place because he'd previously made a claim against an employer. But looking at the policy he took out, I'm satisfied that's what he got when taking out this specific policy. The exclusion applied to his subsequent claim wasn't specifically in relation to employment claims; it was a general exclusion applicable to all aspects of the legal cover. The fact that the claim he made was one that was thought to affect the outcome of other claims is unfortunate. But I've seen nothing that supports that Mr E might have anticipated any future employment claims he might make would be affected by this exclusion, such that he would decide not to take the policy out. In addition, the exclusion noted in the policy is quite common in legal expenses insurance policies. So, there's a good chance it would have featured in a different policy had he have gone elsewhere in any event.

Mr E has said there were other policies on the market that didn't include the exclusion applied to his employment claim and that he could have selected a policy like this if he'd been aware of it before taking out the cover. To be persuaded by this argument I'd need to be satisfied that Mr E had some reason to think this exclusion could be applicable to future claims he might make- like for example a claims decision on a different claim that was affected by it- such that it would cause him to look for an alternative policy that didn't include it.

I note that he has made the point that he didn't understand the exclusion in any event and that its construction was unclear. I don't intend to revisit the issue of how that exclusion was applied and why- that matter was dealt with by another Ombudsman in detail in Mr E's complaint against the underwriter of the policy. Even if that was the case, I'd have to accept that Mr E would have done something differently and not taken the cover out and/gone elsewhere for an alternative policy, had he understood it and the implication of it. For the reasons I've already set out, I'm not persuaded this would have been the case.

Mr E has made submissions in relation to rights of access to the courts. Whilst I understand the points made, I don't consider this to have any bearing on the question of whether this policy was mis-sold. If it's right that Mr E intended to take out a policy that covered legal costs for employment disputes then that is what he got, subject to the policy's terms and conditions. As such I'm satisfied that Hastings didn't do anything wrong.

Finally, I've noted all of Mr E's submissions about the exclusion relied on by his insurer to turn down the claim being unfair and the reasons for this. I don't need to determine this point or draw any conclusions from it. That's because I take the view that even if Mr E had had his attention drawn to this term, he wouldn't have done anything differently and decided not to take out cover for the reasons set out above.

My final decision

I don't uphold Mr E's complaint against Hastings Insurance Services Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 21 September 2023.

Lale Hussein-Venn
Ombudsman