

## The complaint

Mr M complains that he was mis-sold personal accident insurance as an add-on to his motorbike insurance policy that he holds with Hastings Insurance Services Limited. He believes Hastings failed to make clear what the policy would cover, and it misled him about the nature of the insurance. Mr M says this caused the refusal of a valid claim by the insurer.

## What happened

Mr M bought his policy online on 14 June 2019. He added an additional benefit to his policy application for a further £19.99, set out as enhanced personal accident cover. The cover comprises a lump sum payment of £20,000, payable in the event that Mr M suffered from one of a number of defined bodily injuries, total permanent disablement or death.

In mid-July 2019, Mr M had an accident involving his motorcycle, resulting in an injury to his finger. He sadly had to undergo amputation of part of his index finger.

Mr M made a claim under the personal accident insurance within his policy for '*loss of a limb*'. The claim was made via Hastings and passed to the third party business that operated the benefit. However, the claim was refused. The third party explained that the policy terms required the loss of a hand or foot. Mr M's circumstances therefore didn't meet the requirements of a valid claim.

Mr M complained in an email dated 21 July 2019. Along with the grounds he believed the claim was unfairly refused, he also said he was mis-sold his policy. Mr M said:

- he believed he would be insured for the loss of a finger;
- he believed it unfair to exclude loss of a finger or part of a finger from the definition of loss of a limb;
- it was not clearly stated in marketing material, nor under exclusions of the policy;
- it is unfair for a customer to predict these incidents would not be covered as standard;
- if the policy wasn't clearly explained in the documents given to a customer, the Financial Ombudsman Service may conclude the policy was mis-sold;
- this service's website guidance says that we may tell an insurer to pay a claim if we decide an exclusion or restriction was unfair or unusual and wasn't brought to the customer's attention – or if the customer could have bought a policy elsewhere which would have covered their claim;
- he also felt that Hastings had disregarded guidance from the regulator in ensuring it treated its customers fairly;
- he had additional administrative concerns that arose after he had made his claim, firstly that he had needed to complain twice and secondly that he could not access his policy documents online.

Hastings issued a reply to the complaint on 14 August 2019. It rejected the complaint. It reviewed the wording available online when Mr M applied for his policy and the information sent to him once he had taken out the insurance. It said that the wording stated Mr M would be covered for the loss of a limb, which is defined as the loss of a hand or foot. There was

no cover for the loss of a finger, and as such it did not feel it had misled Mr M in any way when he applied for the policy.

In respect of the administration issues, it said it had reviewed carefully the call Mr M placed on 28 July 2020 where he had said he complained previously. But the earliest evidence of any complaint was one week before on 21 July, when Mr M raised the current complaint.

Further, it said Mr M's documents were available to view online and he could try different devices and ensuring he had the latest updated PDF software. If he still couldn't view them, Hastings told Mr M he could contact it at any time, and they'd assist him with any technical issues if they persisted.

Hastings also noted to Mr M that he said he had since sold his motorbike, yet his policy was still running. It said that if Mr M wanted to cancel the policy, it would be prepared to waive its cancellation fee, on receipt of proof he had sold the vehicle.

Mr M was unhappy with the response and referred the complaint to this service, specifically regarding that he believed the policy was mis-sold. Two complaints were set up – one against Hastings and the other against the business operating the policy. Mr M reiterated that he bought the additional benefit specifically for the type of accident that he suffered, and Hastings hadn't made clear that the loss of a finger wasn't covered.

Mr M also referred to a journal relevant to insurance claims, referencing how it sets out a definition of a finger as an '*upper limb*'. That journal also went further to explain the function and psychological consequences of the loss of a finger or part of the hand, which Mr M explained was relevant to his circumstances.

Mr M said the definition given to him was so short and non-specific (by not including loss of a finger as a subset of the loss of a limb) that this must be taken to mean he has been mis-sold the cover because to refuse loss of a finger is an unfair and unusual restriction. To that end, he supplied an extract of a policy offering from a different insurer which gave a greater set of definitions. That insurer covered loss of a finger/fingers, loss of a thumb/thumbs and loss of toes as separate lower lump sum payments to loss of a hand, foot, or limb.

An investigator reviewed the complaint and concluded that it ought to be rejected. This was because the information given to him at the time he took out the cover made clear that the policy covered loss of a limb, and specifically what that was defined as. She said there wasn't an exclusion; instead, what Mr M tried to claim for wasn't covered by the policy.

Though she appreciated that Mr M feels that the definition of limb wasn't brought to his attention, she took a different view and felt it was fairly outlined in the policy document.

Further, she said the inability to access documents online that Mr M had concerns about came about after he had made his claim and that this did not affect the sale of the policy.

Mr M said he disagreed and wanted an ombudsman to review the complaint. He noted that the product information sheet supplied to him was misleading, and Hastings could easily have ensured that the definition of a limb was on that sheet if it had wanted to do so.

Hastings had no further comments to add.

### **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.

I was sorry to learn of Mr M's accident and the injury he has suffered. I understand this has been extremely difficult, particularly where it has affected his profession.

To be clear, this complaint concerns only the actions of Hastings as the business which Mr M purchased his policy from online. I won't be making findings about the decision of the third party to refuse the claim itself, as that is the subject of a separate complaint lodged with this service.

That means though Mr M has supplied evidence about his view on the definition of a limb, that evidence is relevant to the claims complaint. This complaint is primarily about the sale of the policy, though I note there are some additional administrative concerns held by Mr M.

Looking at the evidence submitted by both parties, I agree with our investigator that this complaint should not be upheld. That is because I do not believe Hastings has been unfair or unreasonable in how it has set out the policy terms for the personal accident cover.

Hastings did not decide what the insurance did or did not include. That was part of the offering by the insurer. But, as Mr M has pointed out, it did need to provide clear information and keep Mr M appropriately informed of what the enhanced personal accident cover comprised. Having looked at the documentation from the time of the sale, I believe it did this.

I've looked carefully at the 'Insurance Product Information Document' that Mr M confirms he received. I realise he has explained how he based his decision to take out the benefit based on this. This document cannot incorporate the full policy terms, as those are supplied by the third party insurer. However, I believe Hastings product information document is clear and that it gives a reasonable summary of what it included in the policy. It says:

**“What's this type of insurance?**

This is a Personal Accident Insurance policy that provides certain lump sum benefits following an injury sustained in a road traffic accident whilst riding on the insured bike.”

The document then sets out bullet points of what is insured, what isn't insured, where the applicant is covered geographically, one restriction (that being the maximum benefit of £20,000) and the obligations in place if a claim is made.

Under the 'what's insured' section, it says:

“● *Loss of a limb or limbs - £20,000*”

I realise that to ascertain the exact definition of 'limb' a policyholder would need to review the policy wording. But I don't find that Hastings has been unreasonable in setting out the summary information how it has. I believe a layperson would reasonably understand a limb to mean an arm or a leg – and therefore including a hand or a foot. I don't believe Hastings needed to set out the exact policy definition of limb within a product information sheet. Nor do I believe loss of a finger was expressly excluded. The policy does not cover every conceivable accident that a person may suffer. It offers a lump sum payment in a limited number of prescribed circumstances, such as loss of a limb, sight, hearing, speech, total disability or death.

It simply would not be possible to provide a summary of the key provisions if each and every term with a specified definition was included. That is why there is a sheet of this nature. It is intended to provide an overview, not the entire policy conditions (those are supplied in an

additional 64-page additional benefits conditions booklet). It is for that reason that Hastings sends out policy terms once the contract of insurance comes into force.

Hastings also sent Mr M a letter on the date the insurance was accepted on 14 June 2019. This letter told Mr M that he needed to review the policy documentation carefully and to contact it if he had any queries or needed to make any changes. Though I recognise Mr M feels there has been administrative failings, I don't agree that Hastings has acted unreasonably in how it has supplied the policy to Mr M.

I recognise it is upsetting for Mr M that he went on to suffer partial loss of a finger. But looking at the sale of the policy, I cannot use hindsight to determine what Mr M would have done in June 2019. I need to decide if Hastings acted fairly at that time, and I consider it has. I cannot safely conclude Mr M would have acted any differently whether the policy summary document included the limb definition or not. That is because Mr M cannot have reasonably foreseen or predicted his accident. Further, I cannot hold Hastings responsible for the loss of any possible right to claim elsewhere, as I don't think it has been misleading about the nature of the personal accident cover.

Nonetheless, I have reviewed the information Mr M supplied to our investigator, showing that a different insurer did offer cover for loss of one finger and more than one finger. But I don't agree that endorses Mr M's argument that Hastings misled him into considering loss of a limb includes a finger. Firstly, it is a different policy, with a multi-level payment scheme based on severity of an injury, seemingly attached to motor vehicle insurance. Secondly, it sets out loss of a limb separately. This would support the position that an applicant or layperson would reasonably believe that there is a material difference between loss of a limb and loss of a finger, thumb or toe.

### **My final decision**

Though I was sorry to learn of Mr M's accident, I do not find Hastings to have acted unfairly in relation to the sale of his personal accident cover. And so, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 October 2020.

Jo Storey  
**Ombudsman**