

The complaint

Mrs and Mr P's complaint is about the sale of a landlord's legal expenses insurance policy by Orwell Insurance Services Limited ('Orwell').

Mrs and Mr P say the policy was mis-sold.

What happened

Mrs and Mr P took out a landlord's legal expenses insurance policy with Orwell in October 2023. Orwell say Mr P telephoned them to request this type of policy, following which a quotation was supplied to him by email to consider and agree to if he was happy with the policy offered. Mr P duly accepted the quotation.

The policy started in mid-November 2023. In December 2023 Mrs and Mr P's tenant fell into arrears on the rent payable to them. Mrs and Mr P didn't claim on the legal expenses insurance policy immediately but when they did, the insurer turned it down on the basis that any claim arising within the first 90 days of cover was not insured. Unhappy, Mrs and Mr P complained to Orwell.

Orwell said they provided Mrs and Mr P with enough information to decide for themselves whether they wanted to take out the cover and they agreed to do so on that basis. Mrs and Mr P don't think this was good enough and feel that the term relied on by their insurer to turn down the claim was significant and therefore more should have been done to draw their attention to it by Orwell. As such they referred their complaint to the Financial Ombudsman Service.

Our investigator considered Mrs and Mr P's complaint and concluded that it should not be upheld. Mrs and Mr P don't agree, so the matter has been passed to me to determine.

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 don't uphold Mrs and Mr P's complaint. Before I explain why I wish to acknowledge Mrs and Mr P's strength of feeling about it and the number of submissions they've made. Whilst I've considered everything they've said, I won't be addressing each and every point. That's not intended to be disrespectful, but rather represents the informal nature of the Financial Ombudsman Service.

The policy appears to have been sold in two parts; a phone call took place between Mr P and Orwell, following which a quotation was supplied by email, which Mrs and Mr P agreed to based on the information sent to them. Based on everything I've seen it looks like the policy was sold on a non-advised basis because I haven't seen anything to support that Orwell recommended the policy to Mrs and Mr P based on their specific demands and needs. When making that determination I appreciate that Mr P says the person he spoke to recommended he take out legal expenses, insurance cover, but that in itself wouldn't mean

the sale becomes an advised one. In order for that to happen, I'd need to be satisfied that Orwell recommended a specific legal expenses insurance policy that was suitable for their specific needs and circumstances. And from what I've seen, in this case Orwell appear to have provided Mrs and Mr P with details of a policy and that Mrs and Mr P then needed to satisfy themselves that the cover offered was suitable for them in their circumstances. That means that Orwell's duty was to provide Mrs and Mr P with enough information to allow them to decide whether the policy met their needs.

Mrs and Mr P say that the policy was mis-sold to them during the course of the initial phone call they had with Orwell, because the 90-day exclusion for claims wasn't drawn to their attention. They also say they were told the legal expenses insurance is just a minor addition, costing a small amount, and that it would protect them in case of tenant defaulting on their rent. They also say the information they were sent by email was insufficient to draw their attention to the policy exclusion. Orwell say they don't record calls with their customers and that the information they provided Mrs and Mr P was enough to draw their attention to the policy exclusion.

In the absence of a call recording or any further detailed information about the content of the call Mr P says he had with Orwell, I can't say with any certainty what was discussed. I accept however that during that call it's more than possible that Orwell did not draw Mrs and Mr P's attention to the policy exclusion. But that might not have been unreasonable if they had yet to source and supply them with a specific quotation for insurance at that point. What I do however have is details of is the documentation Mrs and Mr P were sent by email. Having considered that information, I can see that the policy exclusion is noted within the Insurance Product Information Document (IPID) under the heading "*What Is Not Insured?*". As the investigator explained, an IPID is usually where we'd generally expect to see the significant terms of a policy highlighted. Following receipt of this document, Mrs and Mr P accepted the quotation. In response to that Orwell sent them a further letter together with the policy terms with the following in bold:

"please read them carefully so you know what you are covered for along with any exclusions or limitations on the policy (if you would like a paper copy please let us know)"

Mrs and Mr P maintain that the information they were given was still not clear enough to draw their attention to the policy exclusion applicable to the insurance they took out. Whilst I'm not persuaded by this argument, I don't think it makes a difference to the outcome of this complaint. I say so because even if I were to accept that the exclusion was not made clear to them, I've not been provided with any evidence to support that they would have done something differently, had the exclusion been made even more explicit by Orwell. I say so for a number of reasons.

Firstly, the exclusion in the policy they took out is a common feature of insurance policies of this nature. And Mrs and Mr P haven't supplied details of any other policy that might have been available at the time that didn't contain this kind of exclusion, so I'm not convinced that one was necessarily available. But even if I accept that one might have been available, which I think is unlikely, I doubt it would have been available at the same cost. Given Mrs and Mr P took out what they quote Orwell as telling them this was a low-cost policy, I'm not satisfied that they would necessarily have wanted to pay considerably more for insurance that didn't contain this exclusion period, which would inevitably have been the case because it would have carried significantly more risk to the insurer. In addition, Mrs and Mr P have said they have never had a tenant default on rent before. In light of this I'm not sure why they would have been concerned about a 90-day exclusion on claims, given they had no cause to think that their tenant would default during this period, based on their experience. As such I'm not persuaded that they would have done anything differently and not taken out the

policy they were offered by Orwell had the exclusion been drawn to their attention.

Given the level of arrears their tenant has currently accrued, I can quite understand why Mrs and Mr P are concerned that their policy didn't offer cover for them on this occasion, and that with the benefit of hindsight, they might have done something differently. But for the reasons I've mentioned, I don't think Mrs and Mr P would have done anything differently at the time they took the cover out even if this exclusion had been drawn to their attention. In addition, I think that the information they were sent in the IPID did draw specific attention to this exclusion in any event. They agreed to take out the insurance on that basis. Because of this I don't think this policy was mis-sold.

My final decision

I don't uphold Mrs and Mr P's complaint against Orwell Insurance Services Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 19 December 2024.

Lale Hussein-Venn
Ombudsman