

## **The complaint**

A company that I'll refer to as J has complained about Aviva Insurance Limited's handling of its business interruption insurance claim.

Mrs B, a director of J, has brought the complaint on J's behalf.

For ease of reading, reference to Aviva includes anything done by its agents.

## **What happened**

J held a commercial insurance policy with Aviva. J claimed on its policy in 2020 after its business was impacted by the Government's response to the Covid-19 pandemic.

Aviva said J's claim wasn't covered under the core business interruption section of the policy as Covid-19 hadn't damaged property. However, Aviva said J had a valid claim under the extension for 'Prevention of Access – Public Emergency' – which had a claim limit of £10,000 - and therefore asked J to provide further information to substantiate its losses.

J contacted Aviva to say that in order to provide the requested information its accountant required the return from Aviva of 12 weeks of original receipts which had been submitted previously for a different claim.

Aviva said they would accept the business's prior accounting records in order to establish its previous performance. However, Mrs B said she didn't have access to any previous accounts as the business had only recently been bought.

On 28 August 2020 Aviva contacted J to say they'd discovered that, while the original receipts were unavailable due to Covid-19 restrictions, the information from them had been attached to a spreadsheet and therefore the information was now available on the system.

J complained to Aviva as it thought they were taking too long to deal with the claim. J also didn't think Aviva had paid enough under the policy as it thought other sections of the policy provided a greater level of cover.

Aviva said they still required information to substantiate J's loss during the period it was closed and as J had been purchased as a going concern Mrs B should have access to the accounts of the previous owners. However, Mrs B said the previous owners didn't have any accounts and J hadn't been taken over as a going concern.

In response, Aviva apologised for their error and said reference to the business being a going concern was an error by the representative responding to the complaint and not something that had been taken into account on the claim.

On 26 October 2020 Aviva agreed to consider the claim using the information they already had available. However, they said they didn't know when they would be able to settle the claim as they were considering the High Court judgment in the Financial Conduct Authority's 'test case'.

Aviva ultimately agreed to pay a settlement of £10,000 on 5 November 2020.

Unhappy with Aviva's response, J brought its complaint to us. J said it had taken out a bounce back loan (BBL) in part to cover the money owed by Aviva.

Our investigator looked into J's complaint and recommended it be upheld in part. She thought Aviva had considered J's claim under the only part of the policy which provided cover. However, she thought Aviva had taken longer to do that than they should have done, so she recommended Aviva pay J £350 compensation for its inconvenience.

### **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.

J has made a number of detailed points. While I have considered all of the information provided, I'm going to focus my decision on what I see as the central issues to this complaint.

#### *The claim*

I'm sorry to hear that the pandemic and the Government's related actions have had an impact on J's business. Business interruption insurance offers protection from risks common to a business, but different policies can provide different types of cover. What is and isn't covered is set out in the policy terms and conditions. I've therefore looked carefully at this particular policy to see if Aviva have acted fairly, reasonably and in line with the terms and conditions of the policy when deciding that J's policy only provided cover under the extension for prevention of access – public emergency.

The core business interruption section of the policy provides cover:

***"In the event of **Damage to Property** used by **You** at the **Premises** occupied by **You** for the purposes of the **Business**"***

Damage is defined in the policy as:

***"Material loss destruction or damage"***

For this part of the policy to provide cover for J's claim, its loss would need to be due to damage to property used at its premises. I haven't seen anything to indicate that Covid-19 caused damage to property, so Aviva was correct to say this part of the policy doesn't provide cover.

The cover under the policy is extended through various extensions. There is an extension for 'disease' but that provides cover for a list of specified diseases which doesn't include Covid-19.

Given Covid-19 wasn't in existence at the time the policy was entered into, I wouldn't expect it to be included in the list of diseases. But there are similar policies on the market that provide cover in the circumstances of the pandemic, eg policies which cover all notifiable diseases as set out and updated on a Government-defined list. J's policy is not like this – it sets out a defined list of the diseases which are covered. And there is nothing in the wording of the policy which implies it would provide cover for any new diseases which might emerge. So, I don't think the policy can fairly be read as covering all and any new diseases and therefore this doesn't provide cover for J's claim.

Aviva accepted J has cover under the extension for prevention of access – public emergency. Under 'What is not Covered' it says, "*Any amount over £10,000*". As Aviva has paid J £10,000 under this extension, they have paid the claim limit and therefore I don't require them to pay anything further to settle the claim.

### *Claim delays*

When making a claim it's for the policyholder to substantiate its loss. I think the information Aviva asked for was reasonable to evaluate the losses J had suffered.

Aviva said they were unable to pay J until they had received all the required information and they didn't have this for some time. However, I think it became apparent by August 2020 that in order to provide accounts, J's accountant required the return of original till receipts that had been submitted for an earlier claim.

I understand that Covid-19 meant Aviva were unable to return to their offices to return the receipts to J. I also understand that Aviva had appointed a loss adjuster to look into J's claim for Covid-19 and the loss adjuster didn't have access to Aviva's systems. But given J had previously submitted figures to Aviva, I think Aviva should have done more to find out if this information was available sooner. This would either have enabled J's accountant to provide accounts or Aviva to have decided if they could make a decision based on this information. Aviva said that even after finding the receipts they still required further information, but I think they could have asked for this earlier in the process.

I recognise that many policyholders would have had the information Aviva was requesting, so I don't think it was unreasonable for Aviva to ask for that information. But in this case I'm satisfied that the delay in locating the information contained within the receipts caused J unnecessary inconvenience and also meant the claim wasn't paid as quickly as it should have been.

I understand part of the delay in paying J was due to Aviva putting claims payments on hold. However, ultimately this claim was paid by Aviva and delaying the payment caused J inconvenience.

I've thought about whether interest should be awarded due to the delay, but I don't think it should. I say that because J took out a BBL for more than £10,000 in part to cover the settlement owed by Aviva. That meant instead of having the money from Aviva, J had money from the BBL. As no interest is payable on a BBL for the first year and Aviva paid J's settlement within 12 months of the claim, there was no cost to J from not having the money from Aviva.

### **Putting things right**

I think that Aviva caused J unnecessary inconvenience in the time it took to pay the claim and I agree with our investigator that £350 is a fair and reasonable amount for Aviva to pay J to compensate for this.

### **My final decision**

My final decision is that Aviva Insurance Limited should pay J £350 for the inconvenience it caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 28 March 2022.

Sarann Taylor  
**Ombudsman**