

## The complaint

Mr D is a sole trader. He has complained that Hiscox Insurance Company Limited unfairly turned down his claim for cancelled events under his commercial insurance policy.

## What happened

Mr D held commercial insurance with Hiscox. He looked to claim on his policy in May 2020 after his business was impacted by Covid-19 and the Government's response to the pandemic. In particular, he thought the following provided cover:

***"Cancellation and abandonment cover extends to include the following as standard:***

***13157 WD-HSP-UK-GEOE-CA(5)***

***• irrecoverable expenses incurred by you in connection with running or organising an event following postponement, abandonment, cancellation or relocation as a sole and direct result of a cause entirely beyond your control."***

In July 2020, Hiscox said Mr D didn't have business interruption insurance and no other part of the policy provided cover.

Mr D complained to Hiscox as he didn't think it had properly considered his claim under the cover for cancellation and abandonment. Hiscox said the cover for cancellation and abandonment was set out in the policy summary but wasn't cover Mr D had selected.

Unhappy with Hiscox's response, Mr D brought his complaint to our service. Mr D didn't think Hiscox had properly considered his claim and was unhappy about the time Hiscox had taken to respond.

Our investigator thought that Hiscox had fairly turned down Mr D's claim as he didn't have the cover for cancellation and abandonment or cover for business interruption as part of his policy. However, he thought Hiscox had taken longer than it should have done to deal with things, so he recommended Hiscox pay Mr D £100 compensation in recognition of this.

Hiscox accepted our investigator's recommendation. Mr D accepted the £100 compensation for delays but pointed out that the cover for crisis containment, which was part of his policy, had the following in the title "13157 WD-HSP-UK-GEOE-CA(5)", which was the code associated with the cover for cancellation and abandonment.

Hiscox said this was an error on the policy schedule and Mr D didn't have the cancellation and abandonment cover. However, Hiscox said that even if the policy did include cancellation and abandonment cover, the policy included an exclusion for communicable diseases, so Mr D's claim wouldn't have been covered. Hiscox pointed out that Mr D hadn't been sent the full policy terms for the cancellation and abandonment cover, but it didn't think Mr D would have bought a different policy even if he'd known about the exclusion. Hiscox said it wouldn't pay Mr D's claim but offered him £750 as a gesture of goodwill in recognition that its service hadn't been what it would expect. Mr D accepted this offer and I understand Hiscox has now paid Mr D £750.

On the basis of Hiscox's final response, I sent Mr D an email to clarify which points remained in dispute and to explain why I didn't intend to require Hiscox to pay anything more than it had already agreed to. In summary, I didn't think any error by Hiscox had caused Mr D a loss he wouldn't otherwise have had.

In response, Mr D said that he'd paid extra for a policy which included cover for cancellation, and he entered into the contract on the basis of the information which had been provided. He said he'd been denied the opportunity to take out cover elsewhere and the purpose of insurance was to cover unforeseen risks.

I issued a provisional decision on this complaint on 15 November 2022. I said:

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

*I'm sorry to hear that the pandemic and the Government's related actions have had an impact on Mr D's business. However, I think the £850 Hiscox have agreed to pay to resolve his complaint is fair and reasonable in all the circumstances. I'll explain why below.*

#### *The claim*

*As Mr D said he'd entered into the contract on the basis of the wording provided, I've started off by considering whether the wording associated with WD-HSP-UK-GEOE-CA(5) in the summary document formed part of the contract between Mr D and Hiscox and therefore whether the inclusion of the wrong code means that cover is available.*

*The policy has to be interpreted as at the time the parties entered into it. I understand from Hiscox that Mr D bought his policy online and the incorrect code has been on the schedule since the initial sale in 2017. Hiscox said that when buying the policy Mr D would have been asked to select which cover was required. Hiscox has provided a spreadsheet showing the data which pulled through from the application form. The spreadsheet indicates that Mr D didn't select cancellation and abandonment cover at that time so in my view, this means that Mr D didn't buy the policy expecting it to provide cover for cancellation.*

*Mr D said he bought the policy and paid a higher amount for it on the basis that cancellation cover was included. However, I think this is unlikely given that he didn't select cancellation cover when buying the policy. I've noted Mr D's point that he doesn't think it's reasonable for me to decide what I think would most likely have happened. However, as it's impossible for me to know for sure, my role is [to] reach a decision based on what I think is most likely, having considered all of the information available to me.*

*The policy is described as offering pick-and-mix type cover, so I think Mr D would reasonably appreciate that some elements of the cover set out in the summary might not be included in the policy. The relevant section of the Schedule is headed "Crisis Containment" and it then refers to a crisis containment supplier, as well as the limit for out of hours crisis containment – with no reference to cancellation apart from the code. Moreover, the summary document – which doesn't form part of the contract – says that Cancellation and Abandonment cover is extended to include the provision Mr D believes he is able to claim from. The summary doesn't say that the crisis containment cover Mr D has extends to provide the cover, so I don't think this provided a reasonable expectation of cover.*

*The policy itself includes the Crisis Containment wording, with no reference to the cancellation cover. The Crisis Containment section in the policy has the correct code in the footer, which does not match the one in the Schedule. I think this indicates that the error is in*

*the Schedule, not the policy.*

*Taking all of this into account, I think the insertion of the code for cancellation cover would most likely be considered an obvious error and therefore it doesn't provide cover under the policy and it was reasonable for Hiscox to decline Mr D's claim.*

#### *Sale and renewals of the policy*

*As I've said above, I'm not persuaded that Mr D intended to buy cancellation cover as he didn't select it when he bought the policy. However, he might say that he didn't add cancellation cover at the renewals because he thought the incorrect code meant it was already included. So I've considered this for completeness. In doing so, I've considered what I think is most likely to have happened.*

*Mr D said he wanted cancellation cover and thought he'd paid more for it. So, I think it's reasonable to conclude that Mr D might have added the cover to his policy at a renewal if he'd known it wasn't included. But even if he'd added the cover, the cancellation cover has an exclusion for communicable diseases which I believe would have applied and so wouldn't have covered Mr D's claim.*

*I've noted Mr D's point that the exclusion couldn't form part of the contract if he wasn't aware of it. But as I've said above, I don't think cancellation cover was part of the contract, so I don't think it's relevant that the exclusion wasn't provided to him. Instead, it's for me to consider what Mr D would have done if he'd known about the exclusion. Having done so, I remain unpersuaded that Mr D wouldn't have added this cover if he'd known about the exclusion. I understand that Mr D would have wanted a policy which provided cover for unforeseen circumstances and with the benefit of hindsight I accept that this is what Mr D believes he would have done. However, many policies contain exclusions and I haven't seen anything to indicate that cover in the event of disease was something which was of a particular concern for Mr D at the time he bought or renewed the policy. Therefore, I don't think the inclusion of the incorrect code caused Mr D a loss he wouldn't otherwise have had.*

#### *Distress and inconvenience*

*While I don't believe that Hiscox needs to pay Mr D's claim, it's clear that Hiscox hasn't provided the service Mr D should expect. In addition to the policy schedule containing an error it took longer than I would expect for Hiscox to provide an explanation of what had happened. Hiscox has agreed to pay a total of £850 in compensation for Mr D's distress and inconvenience. When taking everything into consideration, I think this is a fair and reasonable amount, so I don't intend to require Hiscox to increase it.*

*I recognise this isn't the outcome Mr D was hoping for but, having considered the matter very carefully, I'm not going to require Hiscox to pay anything more than it has already agreed.*

Mr D queried whether he'd received the additional £100 recommended by our investigator but didn't provide any further comments. Hiscox accepted my provisional decision and said it would contact Mr D to arrange to pay the additional £100.

#### **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.

As neither Mr D nor Hiscox have provided any further comments to change my mind, I see

no reason to depart from the outcome reached in my provisional decision.

### **Putting things right**

Therefore, Hiscox should pay Mr D a total of £850 for the distress and inconvenience caused.

### **My final decision**

I uphold this complaint and require Hiscox Insurance Company Limited to pay Mr D a total of £850 for the distress and inconvenience caused. If it has already paid Mr D this amount, it doesn't need to pay anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 3 January 2023.

Sarann Taylor  
**Ombudsman**