

The complaint

J, a limited company, has complained that QIC Europe Ltd unfairly turned down its business interruption insurance claim after its business was affected by the Covid-19 pandemic and gave it incorrect information.

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

What happened

J held a business interruption insurance policy with QIC. It runs a restaurant.

On 17 March 2020 Mrs L contacted her broker to ask whether J would be covered under its policy for business interruption losses if the restaurant was forced to close by lockdown restrictions. The broker contacted QIC who said J would be covered.

At the end of March J claimed on the policy for its business interruption losses caused by Covid-19 after it was required to close its restaurant due to lockdown restrictions.

In late June QIC told J it was declining the claim as there was no evidence that there'd been cases of Covid-19 at its premises. J appealed against this decision. It was told to wait for the outcome of a test case brought by the Financial Conduct Authority aimed at resolving the uncertainty around the validity of many business interruption insurance claims (*"the test case"*).

J complained about having been mis-informed about the cover available under the policy. It said if it had known that it wouldn't be covered, it would have offered a take-away service during the lockdown. J also complained about being told to wait for the outcome of the test case which had no bearing on its claim.

J referred its complaint to our service. I issued a provisional decision explaining why I was minded to uphold the complaint in part. An extract from my provisional findings is set out below:

"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 whether QIC has acted fairly, reasonably and in line with the terms and conditions of the policy when declining J's claim.

The most relevant part of J's policy covers loss as a result of:

"the occurrence at the Premises of murder, suicide, food or drink poisoning, vermin, pests, defective sanitation or any human infectious or contagious disease (excluding Acquired Immune Deficiency Syndrome (AIDS) or any AIDS related condition) an outbreak of which the Local or Government Authority has stipulated shall be notified to them."

For this extension to provide cover, the policy requires the loss to have been the result of a case of the notifiable disease occurring at the premises. Covid-19 is a notifiable disease, as defined in the policy. As with any insurance claim, it's for the claimant to demonstrate that an event covered by the policy has happened. Unfortunately for J it was unable to show that there had most likely been an occurrence of Covid-19 at its premises. So, I can't say that QIC treated it unfairly in not meeting its claim.

Having considered the rest of the policy I do not think there is an area of cover that means QIC should have met J's claim.

I've looked at how QIC treated J from the time when it first enquired whether it would be covered for its business interruption losses if it were forced to close the restaurant by government restrictions. J says that if hadn't been told that it would be covered, then it would have offered a take-away service in order to minimise its losses. However, I'm not persuaded that's the case as J didn't offer a take-away service during later lockdowns. So I'm not convinced it would be fair to require QIC to reimburse J for the profit which it could have made during the first lockdown period if it had offered a take-away service.

J's policy didn't have wording similar to that in the policies which were the subject of the test case. So there was no reason for QIC to delay making a decision on J's claim on account of that. This caused J unnecessary inconvenience. Overall, taking into account this and the inconvenience caused to J by its original incorrect advice, I think the amount of £300 recommended by our Investigator is fair and reasonable to compensate J for this. I understand that this has now been paid."

QIC didn't respond to my provisional decision. In summary Mr L said:

- J doesn't have a figure it can share.
- He didn't feel my provisional decision reflected what they'd been told.
- He thought QIC should stick to its end of the bargain and pay the claim.

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 J and QIC don't have any further evidence for me to consider, I see no reason to depart from my provisional findings and they now form part of this final decision.

I can understand that it must have been very disappointing for J that I have come to a different conclusion from that of our investigator. I issued a provisional decision because I wanted to give both parties an opportunity to make further representations before I made my final decision.

Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the policy document. Unfortunately for J, in this case the terms of its policy mean its claim isn't covered.

Putting things right

To put things right I think QIC should pay J £300 compensation.

My final decision

For the reasons set out above, I uphold this complaint in part and require QIC Europe Ltd to pay J compensation of £300 if that has not already been paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 23 March 2023.

Elizabeth Grant
Ombudsman