

## **The complaint**

Mr B is a sole trader. He has complained about Aviva Insurance Limited's handling of his claim for business interruption cover under his office insurance policy.

Aviva is the underwriter of this policy i.e. the insurer. Part of this complaint concerns the actions of the agents it uses to deal with claims on its behalf. As Aviva has accepted it is accountable for the actions of the agent, in my decision, any reference to Aviva includes those agents.

## **What happened**

In December 2020, the broker that arranged the insurance acted on Mr B's behalf in presenting the claim to Aviva. Mr B wanted to make a claim for business interruption losses suffered as a result of the Covid-19 pandemic. Mr B said he could no longer see clients face-to-face, which meant his business was significantly impacted.

Mr B's business insurance policy includes cover for business interruption losses. One of the extensions to the core business interruption cover provides for losses resulting from access to his premises being hindered or prevented by the Government or local authority due to an emergency. Aviva agreed to consider the claim under this extension. There was communication between the broker and Aviva and Mr B provided evidence of his losses. However, Mr B was not happy with the progress of his claim. The broker complained to Aviva about the handling of the claim and as a result Aviva appointed loss adjusters to deal with the matter on its behalf in May 2021.

In June 2021, it was suggested that a conference call take place between the broker, Mr B and the new loss adjuster, so that queries Aviva had could be discussed. Mr B said he would not take part; he wanted all communications to be in writing to avoid any misunderstanding and because he is deaf.

In October 2021, Mr B's broker decided it would no longer assist Mr B in handling his claim. The broker told Mr B he would have to deal with Aviva directly. Mr B wrote to Aviva in December 2021 asking it to contact him but it did not respond. Mr B is unhappy with Aviva's handling of the claim, which has not yet been settled.

Mr B has also complained about the actions of the broker. I will address that complaint separately.

Mr B has made a number of submissions in support of his complaint against Aviva. I have considered everything he has said and have summarised his main points below:

- Aviva has been deliberately obstructive throughout, including its first claims handlers using the wrong policy.
- Aviva ignored his email of December 2021 saying he could not take part in a phone discussion about the case and asking it to contact him about any other information it wanted and his claim was not progressed at all since December 2021.
- Aviva suggested the turnover figures he provided included VAT when it knew this

- would not be the case, to be deliberately obstructive.
- Aviva has discriminated against him in breach of The Equality Act 2010 as it proposed a conference video or phone call that was not appropriate, as he is deaf; and has refused to consider his claim because he declined this.

Aviva said that it was not aware when it suggested a phone conference that Mr B was deaf and if it had known, it would have acted differently. Aviva also said it thought the claim was withdrawn. Aviva said it was happy to continue to consider the claim and take Mr B's requirements into account. Aviva said it has not yet had sufficient evidence of Mr B's losses to be able to proceed.

One of our Investigators looked into the matter. Initially, he did not recommend the complaint be upheld. The Investigator did not think that Aviva had deliberately delayed the matter and it was entitled to ask for the information it needed. The Investigator also did not think that Aviva had discriminated against Mr B, as it had not known that he was deaf prior to asking for a live discussion. Aviva had said it would make reasonable adjustments going forward and suggested Aviva set out what further information it needed in order to progress the claim, which the Investigator thought was reasonable.

Mr B did not accept the Investigator's assessment and made some further submissions. Mr B said the Investigator said he'd been unhappy Aviva had asked for information he'd already sent but this is a fabrication; neither he nor Aviva said this. The Investigator should withdraw this statement about the basis of his complaint. The main point of the complaint is that Aviva sat on his claim for two years and ignored his correspondence in September and December 2021 asking it to contact him. He is not complaining about delay but about Aviva's refusal to proceed with his claim. No other information has been requested of him, so Aviva has all the information needed to proceed with his claim.

The Investigator looked at the matter again and accepted that Aviva had not responded to Mr B's email in December 2021 and that this caused avoidable delay of around a year. The Investigator recommended that Aviva pay £450 compensation for this.

Aviva said it had no record of the December 2021 email on its file but accepts it was sent. It says it was likely lost or overlooked by the loss adjuster. However, it confirmed it accepted the Investigator's recommendation and said that the loss adjuster would be in touch with Mr B to proceed.

Mr B has not responded to this recommendation and so the matter has been passed to me.

### **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.

#### Handling of claim

I have noted the query about VAT. I can understand why Aviva asked the question given 'nil VAT' was annotated on some of the accounts records Mr B had provided but not others. Aviva sought to clarify the position with regard to whether VAT was therefore included in the records that were not annotated 'nil VAT'. Mr B was very unhappy about this and said anyone with experience of looking at these types of accounts would have known VAT would not have been included. However, I do not agree that this was an unreasonable query to raise. Mr B has also suggested it was a deliberate obstruction of Mr B's claim. I've seen nothing that would suggest to me that this was a deliberate 'misunderstanding' of the accounts in order to hinder Mr B's claim. I also do not see that this query caused any undue

delay or detriment to Mr B. In my view it was a reasonable query given the information provided to Aviva. I've also not seen any evidence that Aviva has been deliberately obstructive in any other way.

Mr B has also said that he has provided everything asked of him by Aviva and so it should have settled his claim by now. I can see he has provided what has been asked of him but Aviva clearly considered it needed more information which is why it suggested the telephone conference. At that point the claim stalled and no further progress was made but I do not consider that this was a deliberate action on Aviva's part. It has not refused the claim.

Mr B did write in September and December 2021 and Aviva should have responded to him to make the enquiries it considered necessary. I therefore agree with the Investigator that some compensation is warranted for the delay this caused. Aviva did not put its queries in writing and there was no communication between Mr B and Aviva after December 2021.

Having considered everything, I consider the £450 suggested by the Investigator to be reasonable to compensate for this.

Aviva has said it will proceed with its consideration of the claim. I think this is reasonable.

#### Breach of the Equality Act

Mr B has also complained that Aviva has failed to make reasonable adjustments for him under the Equality Act 2010 by insisting on a live discussion of the case. I've taken the Equality Act 2010 into account when deciding this complaint – given that it's relevant law – but I've ultimately decided this complaint based on what's fair and reasonable. As the Investigator explained, if Mr B wants a decision that Aviva has breached the Equality Act 2010, then he'd need to go to Court.

I accept that Mr B would have had no reason to tell Aviva or its loss adjuster that he was deaf before it asked for the conference call. However, I consider it is relevant to whether Aviva's suggestion of a conference was reasonable or to not to consider its knowledge at the time that suggestion was made. The loss adjuster felt a live conference call or video meeting would be useful and it is not unusual for claims to be dealt with in this way. I do not consider that the suggestion in itself was unreasonable; and as Aviva did not know that it would be inappropriate for Mr B, I do not consider it discriminated against him in any way.

Aviva has not asked for a meeting again after it found out that this would be inappropriate in Mr B's circumstances and has confirmed it will make reasonable adjustments where required going forward. This seems reasonable to me.

I understand Aviva requires further evidence from Mr B to verify what losses his business has suffered. It should put those queries to Mr B as soon as reasonably possible now.

#### **My final decision**

I uphold this complaint in part and require Aviva Insurance Limited to pay Mr B the sum of £450 as compensation for the distress and inconvenience caused by its handling of the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 July 2023.

Harriet McCarthy  
**Ombudsman**