DRN-4427971

The complaint

Mr C, a sole trader, has complained about Hiscox Insurance Company Limited's settlement offer in relation to a claim for business interruption cover under its business insurance policy.

Hiscox 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 Hiscox has accepted it is accountable for the actions of the agent, in my decision, any reference to Hiscox includes the actions of the agents.

What happened

Mr C runs a hairdressers. In March 2020, Mr C contacted Hiscox to make a claim for business interruption, as a result of the Covid-19 pandemic. Mr C said that as a result of the Government restrictions imposed in March 2020, he had to close his business from late March to 4 July 2020, which resulted in a loss of revenue.

Hiscox initially rejected the claim. However, it reconsidered Mr C's claim after the Supreme Court issued its judgment in the Financial Conduct Authority ("FCA") Business Interruption Insurance 'test case' in January 2021. The FCA asked the courts to consider a sample of policy wordings and how they should respond to the pandemic, one of which had the same wording as Mr C's policy with Hiscox.

Hiscox confirmed in July 2021 that it accepted C was required to close between 21 March and 4 July 2020 and that its claim was therefore covered. Hiscox assessed the claim based on average revenue for year ending July 2019. It made various deductions for costs savings, and also deducted from the claim settlement an amount for Self-Employment Income Support Scheme (SEISS) payments Mr C had received from the Government. Having done so, Hiscox made an offer of settlement in July 2021 of just over £5,000, which was later increased to £12,431 (including £500 accountancy fees). Hiscox also paid £750 compensation for the time taken to deal with Mr C's claim.

Mr C was not happy with the amount offered. There was a reduction in the settlement for underinsurance and Mr C also wanted to claim for the later lockdown periods. Hiscox said that Mr C renewed the policy in September 2020 and the new policy specifically excluded claims related to Covid-19, so Mr C was unable to claim for losses caused by the Government related restrictions imposed in November 2020 and December 2020. Mr C made separate complaints about the level of cover provided and the changes to the policy against the broker that sold him the policy. I have issued separate decisions on those matters.

This decision addresses Mr C's complaint about the delays and service provided in settling the claim. Mr C is also still unhappy that the losses he incurred during the later lockdown periods were not covered. He says these later lockdowns were a continuation of the restrictions imposed in March 2020, which were only partially lifted in July 2020, and so should be covered as part of his first claim and under the policy that ran from September 2019 to September 2020. He says this is therefore not affected by the imposition of different terms when the policy renewed.

Mr C says Hiscox has acted unfairly and unreasonably throughout, initially rejecting the claim and then making mistakes in its calculations and delaying payment to him. Mr C says he had to pay interest on three acquisition agreements for cash advances that were only necessary because of Hiscox's delays and as he was having to repay these, he also incurred interest and charges on his credit cards and two bank accounts. Mr C says the total amount he incurred, in interest and charges, as a direct result of Hiscox's failure to settle the claim in a reasonable time, is £13,363.05. He wants this reimbursed.

Mr C also says he has had to spend a huge number of hours dealing with Hiscox and working to service the debts he had because of its delay in settling the claim. This caused him significant stress and damage to his health; he was hospitalised in January 2022 as a result. Mr C says the compensation offered is nowhere near enough to redress the impact on him.

Hiscox reviewed the matter and said the advances Mr C took were for more than the claim settlement amount. However, it accepted that the first advance he took for £10,000 was probably only necessary because of its delays. Mr C paid 25% interest on the loan taken out on 1 October 2020. Hiscox therefore agreed to pay interest of 8% simple per annum on the settlement offered in recognition of the time taken to settle the claim (based on the dates it could have made payment of the claim in 2020) up to the date Mr C took the first loan and then 25% from then, up to the date of settlement (taking into account the interim payments made). This amounted to £2,238.74 in interest (after deduction of income tax at 20%). Hiscox also agreed to increase the compensation to £1,000 in recognition of the effect the matter had on Mr C's health.

Mr C remained dissatisfied and referred the complaint to the Financial Ombudsman. One of our Investigators looked into the matter. She was satisfied Hiscox's settlement offer was in line with the policy terms and conditions. She was also satisfied that the compensation offered was fair and reasonable in the circumstances. However, the Investigator did think there were unnecessary and avoidable delays in settling the claim. She agreed it was unlikely Mr C would have had to take the first cash advance that he did if he'd been paid within a reasonable time. And she recognised that the interest on this was fixed and due from the time of the cash advance and was not reduced by any early repayment of the loan advance. The investigator therefore proposed that Hiscox pay interest of £2,500 in total being the same amount as the interest payable on that first cash advance. This meant an additional payment of £261.26 interest on the amount of interest calculated by Hiscox.

Hiscox said its original response to the complaint was correct but it was prepared to pay the additional interest recommended by the Investigator on this occasion.

Mr C was still not happy this would be sufficient to put him back in the position he would have been in had Hiscox dealt with the claim fairly and promptly in 2020.

As the Investigator was unable to resolve the complaint, it was passed to me. I issued a provisional decision on this matter in September 2023. My provisional findings are copied below:

Indemnity period

The policy provides cover under the following clause section of the policy:

"Public authority

> *Your inability to use the business premises due to restrictions imposed by a public authority during the period of insurance following…*
> *An occurrence of a notifiable human disease within one mile of the business premises…"*

The indemnity period [is defined] as being:

> *"The period, in months, beginning at the date of the insured damage or insured failure, or the date the restriction is imposed, and lasting for the period during which your gross profit is affected as a result of such insured damage, insured failure or restriction, but for no longer than the number of months shown in the schedule".*

The months shown on the schedule is 12 months.

The insured event in this case is the closure of the business due to restrictions imposed by a public authority, which is what happened in March 2020.

I have to consider whether the losses sustained by Mr C after the period agreed by Hiscox are as a result of that one insured event. Having done so, I don't think the losses were as a result of this one insured event because I think that the cause of Mr C's loss in March 2020 was different to the cause of the loss which occurred from the date it reopened in July 2020 onwards and during the separate periods of lockdown.

The policy only covers losses arising from an inability to use the premises, as a result of restrictions following an occurrence of a notifiable human disease. After July 2020, Mr C was able to use his premises, so the insured event (the inability to use the premises) had ended.

The inability to use has to be absolute; interference with or hindrance would not be enough. It follows that any losses arising from the date Mr C was able to reopen in July 2020, were not directly as a result of the Government's enforced closure in March 2020 but the pandemic generally.

There were further lockdowns (in November 2020 and January 2021) but these were new and separate events. The start date of any event has to be within the period of insurance for there to be cover and these lockdowns started after the policy renewed with different terms.

I therefore consider Hiscox has acted reasonably in determining the indemnity period as being 21 March to 4 July 2020.

Mr C has also said his policy states he has continuous cover and to change any terms during a pandemic is wrong. The policy does state that it is a continuous policy which is defined in the policy as meaning that it will "*remain in force on existing terms at the above stated premium until either party gives notice of cancellation in accordance with the general terms and conditions of the policy (please refer to your policy documents). Your policy does not require annual renewal and the last policy schedule you received is still in force."*

However, the policy goes on to state that "*We may at our discretion amend the premium or terms of the policy."*

While I can understand why Mr C considers it unfair, insurers are generally entitled to decide what cover they want to provide for the premiums charged. I do not consider that it was inherently unfair that Hiscox decided it did not want to provide cover for Covid-19 related claims and therefore amended the terms on the anniversary of Mr C's policy in September 2020. I think it was entitled to do so and this means there was no cover for the later lockdown periods.

Settlement calculations

Part of Mr C's complaint is that Hiscox has deducted money received from the Government through SEISS payments from the claim settlement.

Mr C's policy provides cover for loss of gross profit and says that the amount paid is:

> *"The sum produced by applying the rate of gross profit to any reduction in income during the indemnity period… less any business expenses or charges which cease or are reduced."*

Hiscox has said that the SEISS payments (a total of £3,374) were either a form of income, which limited the reduction in income Mr C experienced, or they acted to reduce an expense or charge which otherwise would have been payable.

I will consider the second of these options first. Where a specific expense or charge has been identified as being reduced by a SEISS payment, it may be reasonable for Hiscox to deduct the equivalent amount from the settlement. This is supported by the reasoning of the High Court in Stonegate[1]. This judgment, in part, considered whether furlough payments should be deducted from relevant business interruption insurance claims. The judge in Stonegate determined that furlough payments were deductible from the relevant claim settlement as a saving. The same reasoning could, in some circumstances, apply to a SEISS payment.

Hiscox has not identified any specific expense or charge which have been reduced as a result of the SEISS payments. So, I do not consider it is appropriate to apply the SEISS payments to the settlement calculation in this way.

Thinking about the situation holistically though, I do consider it is fair and reasonable that the SEISS payments be taken into account as a form of income.

Mr C's policy defines income as:

> *"The total income of the business."*

The SEISS payments were not made directly as a result of work carried out by the relevant businesses. The Government was not liable to pay these businesses because goods or services had been provided to the Government. However, the Government made the SEISS payments on the basis that business carried out by the relevant enterprises was adversely impacted by the pandemic. As such, this is arguably money paid in respect of the relevant business activity.

However, even if I am wrong on this point, I have also taken into account the reasoning of the Court in Stonegate. This judgment did not consider a situation where SEISS payments had been made and the relevant reasoning related to

[1] Stonegate Pub Company v MS Amlin and Others [2022] EWHC 2548 (Comm)

furlough payments. But I think the reasoning of the judge is something I must consider when thinking about the SEISS payments received by Mr C.

The judge in Stonegate considered not only the contractual position presented by the policy in the court case, but also the principle of indemnity and associated doctrine of subrogation.

This is the basis on which insurance, largely speaking, works. And effectively means that a claimant is only able to recover their losses and is not able to put themselves back in a better position than they otherwise would be. And where the circumstances mean the loss the claimant has suffered has been reduced – such as because of a payment made by a third party – the insurer may be entitled to benefit from this reduction in loss.

The judge in Stonegate [… said], in paragraph 267 of the judgment, [that] the clauses in a policy should be construed, if there is any room for argument, to accord with the basic principle that the policy was a contract of indemnity.

So, thinking about the principle of indemnity and the fact that insurance is, effectively, there to cover losses of a policyholder that can't otherwise be recovered, I need to consider whether it is fair and reasonable for Hiscox to deduct money received from SEISS payments from the settlement.

And I think the SEISS payments Mr C received should be treated as income which has reduced the overall loss that Mr C has suffered.

Mr C says the SEISS payments were used to pay for additional work needed to the premises in order for him to operate the business during the pandemic, and so suggests he was not able to use the payments as personal income, which is what they were intended for.

However, I consider they were payments made to the business and, whilst they were not a saving on an expense that existed prior to the claim, they do therefore count as income the business received.

This accords with the general approach the Financial Ombudsman has reached in relation to SEISS payments. Hiscox is aware of this general position, and I note that whilst it broadly accepts this, it considers that the rate of gross profit that needs to be applied to the SEISS payment is 100%. This is on the basis that receiving the SEISS payment did not come at a direct cost to Mr C, so effectively should be considered as pure profit.

Whilst I note this argument, I consider it is fair and reasonable to apply the policy terms in relation to this part of the calculation. Mr C's policy defines the rate of gross profit as:

> *"The percentage produced by dividing gross profit by your income during the financial year immediately before the date of any insured damage, insured failure or restriction."*

So, when calculating the loss of gross profit, it is this percentage from the previous financial year that would need to be applied to the SEISS income.

The policy does include a business trend clause, which allows for the settlement to be amended to reflect any special circumstances or business trends affecting the

claimant. However, the Supreme Court in the FCA test case[2] said that such amendments should only reflect circumstances which are unconnected with the insured peril and not circumstances which are inextricably linked with the insured peril in the sense that they have the same underlying or originating cause.

The SEISS payments were only made due to the pandemic, so I consider that they were inextricably linked with the insured peril as they had the same underlying or originating cause. So, applying this reasoning to the current situation, it would not be appropriate to consider there was effectively no cost associated with this income as being a trend or other circumstance that Hiscox is able to take into account in adjusting the gross profit.

So, I think the appropriate way to calculate the settlement of Mr C's claim is to deduct the relevant SEISS payment from the reduction in income Mr C suffered, and then apply the rate of gross profit during the financial year prior to the claim.

Mr C says that he had to pay tax on these amounts, so it is not fair to deduct the total amount from the claim settlement. However, he would have had to pay tax and national insurance on the income that the SEISS payments were replacing, so I do not agree that any tax or national insurance liability on the SEISS amounts should not be included.

Having deducted the SEISS payment from the reduction of income before applying the rate of gross profit (of 80.3%) … and then deducting the other fixed costs savings, furlough and fixed wages savings, this results in an additional £308.16 owed to Mr C. So a total settlement should have been £12,739.16, rather than the £12,431 offered.

Claim handling and delays

The claim was made in March 2020. A business interruption claim would normally be paid in monthly amounts, once the losses for each month had crystalised and it would be reasonable for an insurer to take around a month to assess the claim. So, the losses for March to 4 July 2020 should have been paid in four interim payments on 24 May, 24 June, 24 July and 4 August 2020 respectively. So, the full claim settlement of £12,431 plus the additional £308.16 in relation to the SEISS deductions – so a total of £12,739.16 – should have been paid to Mr C by 4 August 2020. Hiscox has already acknowledged this (apart from the SEISS element).

I therefore need to work out what is required to put Mr C back in the position he would have been in, had the claim been paid when it should have been.

I consider that interest should be paid, as Hiscox already agreed, on the sums due from the dates it should have paid each interim payment up to the date Mr C took out his first loan in October 2020, which Hiscox calculated as being £261.61. This needs to be reassessed and based on the total settlement amount of £12,739.16, rather than £12,431.

If the claim had been settled by 4 August 2020, then it seems to me that Mr C would not have had to take the cash advance of £10,000 in October 2020. The cost of that was £2,500. The interest on the loan arrangement was bulk loaded and owed in full from the outset of the loan and could not reduced. The loan was repaid by automatic

[2] The Financial Conduct Authority & Ors v Arch Insurance (UK) Ltd & Ors [2021] UKSC 1, paragraphs 287 and 288

deductions of a percentage of all Mr C's credit card sales and online booking payments. Mr C explained that the advantage to this was that he only had to make repayments if he was taking income and didn't have to make repayments if the business was closed.

As it was not possible to reduce the interest Mr C paid on this advance I think this was a financial loss that Mr C should be reimbursed for by Hiscox. I note the £10,000 included an existing amount of £1,863.05 taken previously. The cost of this loan was 25%, so £465.76 of the £2,500 was for this previous amount. I think therefore Hiscox should reimburse the cost of borrowing the £8,136.95, which I've calculated to be £2,034.24.

This is not quite the same as awarding interest on a sum of money that should have been paid to a customer, to recognise the fact they were without funds. I intend to award this to reimburse Mr C directly for a financial loss he would not have incurred had Hiscox paid the claim when it should. As this is reimbursement of a financial loss, rather than interest, it means that income tax should not be deducted from this amount.

The first payment made by Hiscox was £2,500 in April 2021. By then Mr C says his income was reduced as 16.5% of any card payments were being taken to repay the loan and he incurred other charges as a result.

I therefore consider that interest at a rate of 8% simple per annum should be payable on the remaining £4,602.21 (*i.e*. £12,739.16 minus £8,136.95) from the date of that first loan until the date of the first interim payment of £2,500 from Hiscox in April 2021. This rate of interest is the usual rate we recommend in the absence of persuasive evidence that a different rate is appropriate.

After that interest at our usual rate should be paid on the remainder £2,102.21 (*i.e*. £4,602.21 less £2,500) from the date of the first interim payment until the date of the second cash advance Mr C took out in June 2021 for £12,000, at a cost of £3,600, which is the equivalent of 30% interest. At this stage Mr C had received £8,136.95 (by way of the first loan) and £2,500 (first interim payment from Hiscox) so he was still out of pocket by £2,102.21. So I think at least this part of the loan he took in June 2021 was required due to Hiscox's delay in settling the claim. I therefore think it needs to reimburse the cost of that part of the borrowing. I have calculated that 30% of £2,102.21 is £630.66.

Mr C later took a further loan of £18,000 at a cost of £5,400. However, I am not persuaded that all the bank and credit card charges and the entire amounts of the second and third loans were solely the result of Hiscox delays. As noted above, Mr C had taken cash advances before and he had credit card debts as well. However, I can see the delays added to Mr C's financial burden at the time and the requirement to repay the loans, would have reduced his income for other expenditure. It is very difficult to work out precisely the extent of the impact this would have had. I therefore think it would be reasonable to consider the impact of this as part of the distress and inconvenience caused by Hiscox's handling of the claim.

Having considered the handling of the claim, the considerable delays (the claim was only finally settled over two years after it was first submitted) I intend to require Hiscox to make a further payment of £250 (in addition to the £1,000 already offered) to also take account of the additional distress and inconvenience caused to Mr C of having to take and service these loans.

Putting things right

In summary therefore to indemnify Mr C for his losses, Hiscox should pay the following amounts:

1. Interest at 8% simple on the claim amounts up to the date Mr C took the loan in October 2020. Hiscox already calculated this, taking account when each interim payment should have been made, as being £261.61 based on the total settlement being £12,431. I agree with the way it calculated the interest but it needs to be recalculated based on the total settlement being £12,739.16 instead.
2. Reimburse financial loss of £2,121.61 for the cost of the loan for £8,136.95 in October 2020.
3. Interest at 8% simple per annum on the remainder of the settlement (i.e. £12,739.16 minus £8,136.95, which equals £4,602.21) from the date of the first loan to the date of the first interim payment in April 2021. (I have not calculated this exactly but estimate it to be around £184).
4. Interest at 8% simple per annum on the remainder of the settlement of £2,102.21 (*i.e*. £4,602.21 less £2,500) from the date of the first interim payment to the date of the second loan. (Again, I have not calculated this exactly but estimate it to be around £28.)
5. Reimburse the financial loss of borrowing the £2,102.21 in June 2021, which was £630.66.
6. Pay interest at 8% simple per annum on the payments reimbursing Mr C's financial losses (as set out in 2 and 5 above) from the date the financial loss was incurred (which is October 2020 and June 2021 respectively) to the date of payment.
7. Pay Mr C a total of £1,250 (to include the £1,000 already offered) for the distress and inconvenience caused by its handling of his claim."

Responses to my provisional decision

I invited both parties to respond to my provisional decision with any further information or evidence they want considered.

Mr C has not added anything further.

Hiscox has confirmed it agrees with the parts of my provisional decision regarding case handling and delays but does not accept my provisional findings about the SEISS issue.

It has made a number of submissions in response to my provisional decision and has also asked that I consider its response to a decision on another case concerning the same matter, which was issued by another Ombudsman.

Hiscox says that I have incorrectly applied both the law and the policy and have not addressed all the points it has made. Hiscox says that in fairness to it, Mr C and other customers who may be impacted by the same issues there should be a further review and consideration of my decision. Hiscox has specifically highlighted a number of issues. I have considered everything it has said and have I've summarised its main points below:

- The purpose of business interruption insurance as stated by the policy is to provide an insured with an "*amount paid* [that] *reflects the result that would have been achieved but for the insured loss*".
- The starting point for doing this is to look at the actual income / profit earned during the period of indemnity which was impacted by the insured event (in this case

Covid-19). This impact could be both positive and negative.

- The settlement approach I proposed results in an over indemnity for the period of indemnity, as it makes a deduction for costs and expenses that were not incurred.
- It is arguable that the SEISS payment was not "*income"* of the business but was in fact a payment equivalent to *"net profit*", as no costs were incurred by Mr C in obtaining that 'income'.
- The amount of SEISS payment was related to the historical net profits of the business, and therefore could be said to replace net profits. As such, they have already had any costs of sale deducted, and therefore it would not be necessary to make any further adjustment for the rate of gross profit (if any).
- The formula cited refers to the insured's trading profit (so after costs) not average business income and is (as explained above) after costs – so it does not consider the average rate of gross profit to be relevant to calculating the cost of generating the SEISS receipt value**.**
- The correct approach for any income should be to reflect the actual costs incurred (and there were none in relation to the SEISS income) and where the SEISS payment reflects net profits they have already had any costs of sale deducted.
- My proposed calculation of settlement would create disparity between customers insured on a Loss of Income and Loss of Gross Profit and would vary between insureds, as their rates of gross profit will be different.
- It is not trying to adjust a rate of gross profit, rather it simply seeks to apply the actual rate of gross profit that the business incurred in generating the SEISS income, which is zero.
- I've misinterpreted the FCA test case judgment in relation to the trends clause. Paragraphs 251-286 of that judgment, if properly considered, support that there is no basis to suggest the Court was seeking to apply this in a forward basis in the manner I've stated. It is clear from this section of the judgment that the only forward-looking aim of the court was to ensure the loss was assessed without the impact of any Covid-19 factors impacting the indemnity. The court noted that the insured could not seek to rely on a Covid-19 related adjustment to suggest profits should increase. In addition, the court was considering estimated loss and not income actually received (as is the case here).
- This would mean that essentially a policyholder cannot benefit from a circumstances related to Covid-19 and the loss should be assessed without the impact of Covid-19. Its proposed settlement in relation to the SEISS payments achieves this in line with the clear intention of the Supreme Court in the FCA test case and in line with the policy terms and the principle of indemnity.

Meeting

Hiscox has also asked for a meeting to discuss the case before issuing my final decision. Deciding ombudsmen don't routinely talk to either party to the complaint, as fairness would usually require that both parties be involved in any discussion at the same time. We may decide it is necessary to do so, if there is information that is unclear or a dispute about the facts of the case that we consider can only be clarified by discussing it with the parties.

Hiscox has made its case clearly in writing. It seeks a meeting to clarify our approach and, while there is a lot of information and a long history to this matter, the evidence and positions of both parties is sufficiently clear. Hiscox does not agree to our approach but its position is clear and so I don't consider it is necessary to discuss this case with the parties in order to fairly determine the matter.

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.

In doing so, I have to have regard to the law and other relevant matters. There has been no judicial finding on SEISS payments in particular. I have applied judicial comments that I consider relevant but they do not address the particular circumstances of this complaint.

The SEISS scheme allowed self-employed individuals adversely affected by the Covid-19 pandemic to claim a taxable grant worth 80% of three months' average trading profits, capped at £7,500 in total. However, while the payments were based on historic figures of profit, individuals did not need to evidence that actual loss in order to receive the payments. Claimants did not even need to have actually lost this sum of money, though others would have lost more than this. Essentially, there was little correlation between the actual downturn in business activity and the sum received through the scheme.

However, as stated in my provisional decision, in my opinion this was money paid in respect of the relevant business' commercial activity. In broad terms, it was a form of support from the Government for businesses whose income was reduced as a result of the Covid-19 pandemic. I therefore remain of the opinion that the SEISS payment received by Mr C counts as income received for the purposes of his insurance claim.

As this payment is to be treated as income, then I also remain of the opinion that the appropriate way to calculate the settlement of Mr C's claim is to deduct the relevant SEISS payment from the reduction in income Mr C suffered, and then apply the rate of gross profit during the financial year prior to the claim. This is the basis on which Mr C's policy says claims should be calculated.

Hiscox says I have misinterpreted the Supreme Court's comments in the FCA test case regarding the business trend clause. I have considered what it has said very carefully. However, I remain of the opinion that the SEISS payments were related to the Covid-19 pandemic and so it is not appropriate to consider there is effectively no cost associated with this income as being a trend or other circumstance that Hiscox is able to take into account in adjusting the gross profit.

Hiscox says that the Court also essentially said that a business cannot benefit from any Covid-19 related 'trend' and, in simple terms, my proposal means Mr C is benefiting from Covid-19 trend as he is being over indemnified. I appreciate Hiscox's argument here, but given the lack of correlation between the losses sustained by a recipient of SEISS and the payment received, I disagree.

Additionally, the circumstances of each complaint are different. So, even if I am wrong in terms of my conclusions on the legal position, I still consider that it is fair and reasonable in the circumstances of Mr C's complaint for the calculation of settlement to be done in the way set out in my provisional decision.

While the conclusion I have reached in this case might lead to SEISS payments being treated differently for different policyholders, depending on their circumstances, as Hiscox has said, I can only consider what I think is fair and reasonable for Mr C in the circumstances of his complaint. Having considered all the evidence again, I am not persuaded to change my provisional findings.

My final decision

I uphold this complaint against Hiscox Insurance Company Limited and require it to pay Mr C the following amounts:

1. Interest at 8% simple on the claim amounts up to the date Mr C took the loan in October 2020. Hiscox already calculated this, taking account when each interim payment should have been made, as being £261.61 based on the total settlement being £12,431. I agree with the way it calculated the interest but it needs to be recalculated based on the total settlement being £12,739.16 instead.
2. Reimburse financial loss of £2,121.61 for the cost of the loan for £8,136.95 in October 2020.
3. Interest at 8% simple per annum on the remainder of the settlement (i.e. £12,739.16 minus £8,136.95, which equals £4,602.21) from the date of the first loan to the date of the first interim payment in April 2021. (I have not calculated this exactly but estimate it to be around £184).
4. Interest at 8% simple per annum on the remainder of the settlement of £2,102.21 (*i.e*. £4,602.21 less £2,500) from the date of the first interim payment to the date of the second loan. (Again, I have not calculated this exactly but estimate it to be around £28.)
5. Reimburse the financial loss of borrowing the £2,102.21 in June 2021, which was £630.66.
6. Pay interest at 8% simple per annum on the payments reimbursing Mr C's financial losses (as set out in 2 and 5 above) from the date the financial loss was incurred (which is October 2020 and June 2021 respectively) to the date of payment.
7. Pay Mr C a total of £1,250 (to include the £1,000 already offered) for the distress and inconvenience caused by its handling of his claim.

   As stated, I consider the reimbursement of the costs of the loans to be reimbursement of financial loss and do not therefore consider that they are subject to income tax. The other interest payments may be taxable.

If Hiscox considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr C how much it's taken off. It should also give Mr C a tax deduction certificate if he asks/ask for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 29 February 2024.

Harriet McCarthy
Ombudsman