

The complaint

L, a limited company, complains about what Covea Insurance plc did after it made a claim on its commercial combined insurance policy.

What happened

In December 2022 Covea received a claim from L for damage and increased costs of working. This followed a storm which meant its business premises were unusable for 12 months from July 2021. Loss adjusters were appointed and investigations carried out. Covea accepted liability at the end of March 2023. An interim payment was made the following month with final payment following later.

L was unhappy with the settlement amount. It said a telephone system had been wrongly categorised by Covea as computer equipment which created underinsurance and reduced the settlement. It thought the telephone system should have been considered contents. It said it wasn't registered for VAT and so amounts relating to that had been wrongly deducted from the settlement. And it said because of delay by Covea it incurred late payment charges from its landlord and had to obtain legal advice. It thought Covea should take responsibility for these charges.

Our investigator found Covea had now covered some VAT costs and outstanding amounts were ones where it was waiting for evidence from L that VAT had been paid in the first place. He didn't think it needed to do more in relation to this. And he thought new evidence provided about a personal belongings claim was something Covea needed to have an opportunity to consider prior to us looking at it.

He didn't think the overall time taken to progress this claim was unreasonable and so didn't find L's decision to engage solicitors resulted from a failing on Covea's part. The rent payment charges L had referenced seemed to have been incurred prior to the claim being made and weren't something the policy covered. And a £250 payment Covea had already offered did enough to recognise the impact on L of a delay in settlement being paid.

However, he didn't think the telephone system did fall within the definition of computer equipment set out in the policy. So he didn't think it should have been considered within that section (and the cost of that system shouldn't have been used when deciding the relevant sum insured was inadequate). He thought it should have been included within the contents cover offered by the policy. But doing so might mean L was underinsured within that section. He said Covea should assess the amount that would be paid if that was done and settle the claim on the basis of the calculation which put L in the most favourable position.

L accepted his outcome. Covea didn't agree. It said the principal cover offered by the policy was for legal liabilities and not for general contents which would normally be covered under a separate office policy. While L's policy did offer cover for material damage to contents and computer equipment Covea said this was limited to the items specified and defined in the policy. It thought the telephone system could only be considered under the computer equipment section and if it wasn't covered under that cover wouldn't be available for it at all. So I need to reach a final decision.

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.

The relevant rules and industry guidelines say Covea has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably

I've thought first about the time taken by Covea to deal with this claim. I appreciate it did take a number of months to look into the circumstances and for liability to be accepted. But having reviewed the correspondence I think the issues it was raising were ones it was entitled to investigate. And I don't think there was unreasonable delay in it doing so.

As a result, I don't think the costs L incurred in engaging solicitors or additional rent charges are ones Covea can be held responsible for as they don't result from any failing on its part. And in any case the rent charges appear to relate to a period prior to the claim being made to Covea. I also think the £250 Covea has agreed to pay is reasonable to recognise the inconvenience L was caused by the delay in the settlement being paid.

From the most recent correspondence it appears that's been accepted by the parties. The outstanding issue is about the calculation of the settlement and whether the claimed for telephone system was correctly classed by Covea as computer equipment (and if it wasn't whether it could be covered under a different section of the policy).

I've looked at the terms and conditions of L's policy. The Material Damage section (which I think it's agreed is the only one which the telephone system could fall within) covers 'Damage' arising from specified perils which include 'Storm'. However, the policy says "*our liability under this Section shall not exceed the Sum Insured by each item stated in the Schedule in respect of any one Period of Insurance...*" L's schedule for the period which this claim would fall within says the sum insured for 'Computer Equipment' is £5,000. For 'Contents' it's £10,000.

The policy contains a definition of 'Computer Equipment' within Material Damage which includes "*all computer equipment (including interconnecting wiring fixed discs and telecommunications equipment) used for the storage and communication of electronically processed data*".

I appreciate that, given the definition references "*telecommunications equipment*", a telephone system could fall within that. But the definition is limited to equipment used for the "*storage and communication of electronically processed data*". I think it's reasonable to say both elements would need to be present for equipment to fall within that definition. L's telephone system might well be used for the communication of electronically processed data but I haven't seen anything to show it would be used for the storage of the same. So I don't think it does fall within the definition of 'Computer Equipment' the policy contains.

Covea says if that's the case it wouldn't be covered under the policy at all because it wouldn't fall within any of the remaining items in the Material Damage section. And the policy does set out within Material Damage specific definitions of other items, namely 'Machinery', 'Stock' and 'All Other Contents'. I've reviewed those definitions and I don't think the telephone system would fall within any of them.

But the wording of the Material Damage section doesn't limit cover to those items. It limits cover by saying Covea's liability won't exceed the sum insured for each item stated in the schedule. And the relevant policy schedule doesn't refer to 'All Other Contents' but simply

'Contents' for which it gives a sum insured of £10,000. Given that I don't think Covea can limit policy coverage to those items within the 'All Other Contents' definition because the policy wording references the schedule and it doesn't limit cover to 'All Other Contents'.

I also note that in settlement of the claim Covea agreed cover of around £5,900 for contents. The final report from the loss adjuster says that was for "*desks, chairs and other office furniture*". Those items wouldn't fall within the 'All Other Contents' definition in the policy (and wouldn't fall within any of the other definitions that section contains either). So I think Covea's own actions support a wider interpretation of policy coverage.

I think it's therefore right Covea recalculates the claim on the basis the phone system is included in contents. In carrying out that calculation Covea will also need to recalculate the sums due to L under the 'Computer Equipment' section of the policy as removal of the phone system from that element is likely to impact the underinsurance it previously applied. But any payment under 'Contents' will of course be limited to the sum insured and take into account amounts that Covea has already paid out under that section.

I appreciate that, as our investigator said, that might give rise to a question of whether L was underinsured for contents. If that is the case Covea will be entitled to take that into account when calculating settlement. However, when looking at how it's done that to date I'm not clear it's acted correctly and fairly. I say that as it appears to have assessed underinsurance by looking at the sum insured compared to what it believes the value should have been.

The policy terms do reference that approach. But that isn't one of the remedies open to Covea under the Insurance Act 2015 (the approach under the Act takes into account the proportion of premium paid compared to the amount that should have been paid). And Covea could only put a policyholder in a worse position than that available under the Act if it met the transparency requirements the Act contains. I haven't seen evidence to date it did so. Nor do Covea appear to have evidenced that L didn't make a fair presentation of risk when taking out the policy which, if the transparency requirements weren't met, it would also need to do to in order to apply one of the remedies the Act contains.

I don't think that's something I need to determine in relation to this complaint because the conclusions I've reached mean there won't be underinsurance for the 'Computer Equipment' element of the claim. But if the recalculation of the claim does give rise to a separate issue of underinsurance I'd expect Covea to take into account what I've said (and the requirements of the Insurance Act 2015) when applying that. If L is unhappy with any further settlement amount Covea offers having reconsidered the claim it could make a fresh complaint.

Putting things right

Covea will need to remove the phone system claim from the Computer Equipment section of the Material Damage cover and consider this under the contents part of that section. If, having reconsidered the claim, further sums are due to L it will need to pay that amount to it. And it will also need to pay L the already agreed compensation of £250 if it hasn't already done so.

My final decision

I've decided to uphold this complaint. Covea Insurance plc will need to put things right by doing what I've said in this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask L to accept or reject my decision before 17 May 2024.

James Park
Ombudsman