

The complaint

Dr B is complaining on behalf of B – a partnership – that Hiscox Insurance Company Limited has delayed settling a claim he made on B's commercial property insurance policy.

What happened

In November 2023 Dr B made a claim on B's commercial property insurance policy after a fire damaged a building Hiscox was insuring. He's unhappy with the delays that have subsequently ensued. And he thought Hiscox should have issued an interim payment in the first instance. He also believes the policy was mis-sold to him as he says Hiscox has put the claim on hold because of concerns over who owns the property.

Hiscox acknowledged there was an instance where it didn't call Dr B back. But it didn't agree it had handed the claim unreasonably. And it said the following:

- It had fair concerns over the ownership of the property. And it said, as it was a commercial policy, it was for Dr B to ensure Hiscox was aware of the ownership situation with the property and it said he didn't do so. So it said it was entitled to make enquiries into this as part of the accreditation process.
- It didn't believe it had caused any delays in the handling of the claim. It said there were a number of issues it had to consider and it thinks it's handled them fairly.
- However, it acknowledged there was an incident where it's claim handler didn't follow up with its loss adjuster as agreed and said feedback had been provided accordingly.

Our investigator partially upheld this complaint. She said, while she acknowledged it was Dr B's responsibility to make a fair presentation of the risk, she thought Dr B had explained, in some detail, that the building had been built many years before as a playhouse for his (now grown up) children. He told the agent he'd used it to work from home during Covid lockdown, and that he'd then decided to move the partnership into it and stop renting the expensive office they'd been located in. So she thought this was enough to have put Hiscox on notice it needed to make further enquiries regarding the ownership of the property, given she thought it was apparent the building was likely not owned by B. So she didn't think it was fair for Hiscox to delay or decline settlement of the claim because of the ownership issue.

The investigator didn't think Hiscox had been unreasonable in not issuing an interim payment. She said there were other queries in addition to the ownership query – such as whether Dr B's home insurance had any liability towards the claim – it was entitled to make and it was entitled to validate the claim before making any payments. However, she thought Hiscox could have kept Dr B better informed about the queries it was making. So she thought it should pay £100 in compensation.

Hiscox didn't agree with the investigator's opinion and, in summary, raised the following:

- It said its investigation into the claim was still ongoing and it hadn't made a decision on whether it was going to settle then claim or not.
- It said it had a number of concerns regarding the claim – not just the issue with the ownership. So it said it was entitled to make and continue to make enquiries into the

claim as a whole. It didn't think it had caused any unreasonable delays. And it refuted that its enquiries into the ownership of the building had caused any delays in the claim.

- It said Dr B had set out he applied for a business policy through Hiscox as his home insurers had told him it was unable to cover the outbuilding due to the business use. It thought it was therefore prudent to check this with the home insurers.
- It set out, since issuing its final response letters, it has had to make further enquiries into a number of issues. So it refuted its enquiries into the ownership had caused any delays to the claim and it thought, therefore, it was unfair it should pay compensation for this.

As Hiscox didn't agree with the investigator's opinion, the complaint's been passed to me to decide.

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.

Having done so, I've come to the same conclusion as the investigator and I'll now explain why.

I should first set out that I acknowledge I've summarised Dr B's complaint in a lot less detail than he has presented it. Dr B has raised a number of reasons about why he's unhappy with the way Hiscox has handled this matter. I've not commented on each and every point he – and Hiscox – raised. Instead I've focussed on what I consider to be the key points I need to think about. I don't mean any discourtesy about this. It simply reflects the informal nature of this service. I assure Dr B and Hiscox, however, that I have read and considered everything all parties have provided.

Further to this, I should also set out that, in this decision, I can only consider Hiscox's actions in the handling of the claim up to when it issues its final response letter – i.e. 1 March 2024. I understand further issues have arisen since then, but I'm unable to consider them here and Dr B will need to raise these with Hiscox directly if he wishes to take them further.

Ownership of the property

The relevant law in this case is the Insurance Act 2015. This required the policy applicant – Dr B in this case – to make a fair presentation of the risk to the insurer so that it had enough information to assess the level of risk it was willing to provide and on what terms. So I agree with Hiscox that it was Dr B's responsibility to ensure he told Hiscox everything it needed to know about B. If he failed to do this, it had certain remedies provided the failure was – what the Insurance Act describes – a qualifying breach.

However, in this case I'm not persuaded Dr B has failed here. I've listened to the telephone call when he took out the policy. In this call he explained he had been working out of an office, but he stopped during Covid due to the cost and had converted an outbuilding that his children previously used as a playroom into an office. I think it should have been reasonably apparent to Hiscox, based on what Dr B explained when he took out the policy, that the building it was insuring was essentially part of Dr B's personal property – i.e. it ought to have known the information it was recording about the ownership of the insured building may not be accurate. So I don't think it has any fair remedies under the Insurance Act 2015 and, therefore, is unable to use any concerns surrounding the ownership to limit its liability regarding the claim. And, had it recognised this at the time, I don't think Dr B would have experienced the upset and inconvenience of discussing the queries surrounding the ownership.

Hiscox has set out that this hasn't caused any delays to the claim, for reasons I shall address later in this decision. But, regardless of this, Dr B has had to unnecessarily respond to a number of queries surrounding this. And I think that's unfair. The investigator thought Hiscox should pay £100 in compensation for this. And I think that's in line with what I would have awarded.

Claim delay

While, I don't think it was fair for Hiscox to delay settlement of the claim because of its ownership concerns, it did have other enquiries it was entitled to review. The damage arising from the fire was extensive and wasn't just limited to the outbuilding but damage was also caused to the grounds – including a tree. Further to this, it had a fair query that the damage to the outbuilding could also have been covered under the household insurance policy – i.e. it had queries relating to something known as dual insurance. And it was entitled to make enquiries with Dr B's home insurer regarding this

I can see that, up to March 2024 Hiscox was being reasonably pro-active in discussing the claim with its loss adjustor and relevant departments. In addition to the queries it was raising with the private home insurance policy, it fairly requested a fire inspection report and also the fire brigade report. Given the extent of the fire, it was entitled to make reasonable enquiries into this. And it wasn't unreasonable it didn't want to make any payments until it finalised its enquires. I recognise the impact this had on Dr B, but I don't think Hiscox was unreasonable.

Ultimately, by the time it issued its final response letters in February and March 2024, I think it had a number of fair queries it still needed to review. And I don't think I've seen anything to show it had unreasonably delayed settlement of the claim. As I said above, if he has concerns about what's happened after this date, he'll need to raise them with Hiscox first.

My final decision

For the reasons I've set out above, it's my final decision that I partially uphold this complaint and require Hiscox Insurance Company Limited to do the following to put things right:

1. Hiscox should not carry out any investigations surrounding the ownership of the property or limit any liability under the policy for this reason. However, it is entitled to consider the claim under the remaining terms of the policy.
2. Pay £100 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 12 October 2024.

Guy Mitchell
Ombudsman