

The complaint

K, a company, complains TBO Services Limited trading as The Insurance Octopus (“Octopus”) failed it when it came to renewing a commercial property insurance policy.

References to Octopus are inclusive of the actions of its agent(s).

What happened

I issued a provisional decision. I said:

“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

K had a commercial property insurance policy, brokered by Octopus. In the 2021/2022 policy year, a substantial flood claim was made. The insurer, whom I’ll call “A”, accepted the claim but added a policy endorsement to limit its liability in the case of further flood damage. This endorsement was removed following mitigation works completed by K.

The policy was due to lapse on 18 December 2022. Recognising getting cover for K would be difficult given the value of the recent claim, Octopus started making enquiries for renewal options in October 2022. Various insurers declined to provide cover, but no answer had been given by A. On 19 December 2022 A agreed a 14-day extension on the lapsing policy so it could review and consider offering cover.

Octopus didn’t put the extension to K, or explain what was happening with A. Instead, it put a policy with a different insurer to K on 20 December 2022. It knew K wanted to stay with A, it didn’t explain this policy wouldn’t cover flood damage, and it left K in a position where it felt the need to accept cover straightaway to avoid being uninsured, even though A had extended cover. There were other customer service failures too. Octopus let K down here.

K ended up with a policy which had no flood damage cover, and even when Octopus arranged for flood damage cover to be added, flood damage to the basement (the area of highest risk) was excluded. K (and Octopus) were unable to source the cover needed in the policy year 2022/2023, or 2023/2024.

A has shown on 21 December 2022 it offered cover, which included flood damage cover (including to the basement). The premium was significantly higher, by about £2,500 (assuming up to a commission cap). And it had some significant excesses:

- Flood cover for the basement to be reinstated, subject to a £25,000 Flood excess or 15% coinsurance clause, whichever is the greater
- Flood cover for the rest of the property to remain subject to a £10,000 Flood excess or 10% coinsurance clause, whichever is the greater

Had Octopus made clear to K that A was considering offering cover and agreed a 14-day extension, I find it more likely than not K would have waited for A's decision before taking out the other cover. But I'm not persuaded K would have accepted A's terms given the premium cost was clearly important to K, and while it would have had the cover it needed, the excesses combined with the mitigation works K had completed likely made it of little value.

K is now mid-way through the 2023/2024 policy year. There was no flood claim in 2022/2023, or so far in 2023/2024, so it hasn't lost out yet. There is no certainty there will be another flood claim, so it may never lose out. K has, more likely than not, saved money on premiums by not having what would be – because of the substantial previous flood claim – expensive cover.

While A has indicated it would have continued to provide cover to K, there is no certainty over for how long, or on what terms. I understand part of the reason it offered renewal on this occasion was to assist given K's recent substantial claim. K's claim history (I understand there was the substantial flood claim, two other claims, and a claim more recently) would likely have impacted A's future renewal decisions.

In summary, while I find Octopus let K down, I'm not persuaded there is a financial loss for it to put right. K's difficulties ultimately stem from its claim history, namely the substantial flood claim, and I'm not persuaded it would be in a materially different position had Octopus handled the renewal better.

There are non-financial losses though. The service Octopus provided was poor, for reasons the Investigator set out in detail. And because of Octopus' actions – or inactions – K has been left in a position of uncertainty. Octopus has recognised the impact this matter has had on K and offered the following, which I find fairly and reasonably resolves this complaint.

1. Provide a break-down of the fees paid by K (The Investigator noticed some irregularities in sums paid by K);
2. Pay K £550 compensation, plus simple interest at 8% a year from the date of the complaint to the date of the offer (£50.88); and
3. Pay K £2,000 to reflect the time K has spent pursuing this complaint.

My provisional decision

I intend to uphold this complaint and require TBO Services Limited trading as The Insurance Octopus to do as it has offered.”

Octopus didn't provide any further evidence or arguments for me to consider. K responded to say, in summary, it still considers Octopus should be responsible for any flood damage to the basement until alternative cover is found. It also said there had been a flood earlier this year, and the recent claim I referred to was a notification only.

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.

I remain of the view, for the reasons set out in my provisional decision, that it would be unfair for Octopus to be required to be responsible for any flood damage to the basement until alternative cover is found. And I'm still not persuaded there is a financial loss for Octopus to put right.

I accept there was a flood earlier this year, but the repair costs were significantly below the excess on the policy A offered, so I don't find K has lost out financially there. The recent claim I referred to was one of many factors, and it being a notification rather a claim doesn't make a material difference overall.

My final decision

I uphold this complaint and require TBO Services Limited trading as The Insurance Octopus to do as it has offered.

Under the rules of the Financial Ombudsman Service, I'm required to ask K to accept or reject my decision before 15 August 2024.

James Langford
Ombudsman