

The complaint

A limited company, which I will refer to as T, complains about the administration of its commercial insurance policy by QIC Europe Ltd. The issues relate to a claim made for business interruption caused by the COVID-19 pandemic.

What happened

The following is only intended as a brief summary of events. Additionally, even where other parties have been involved in the process, I have just referred to T and QIC for the sake of simplicity.

In late February 2020, T received a quote for its insurance policy underwritten by QIC. The quote was accepted by T and the policy was incepted with a start date of 13 March 2020. T's policy documents were generated on 18 March 2020.

T's business was then interrupted by the COVID-19 pandemic, and it claimed on the policy. It claimed for each separate national lockdown period. QIC declined the claims, and a complaint about that was previously referred to the Financial Ombudsman Service. During this complaint being dealt with, it emerged that there were two versions of the policy wording. I'll refer to these as Type 1 and Type 2. Largely, the policy wordings were similar. But they did include a significant difference in respect of one of the terms.

The Prevention of Access - Public Emergency clause provided cover where access to the insured premises was hindered or prevented by the actions of a Public Authority due to an emergency. However, this clause included a number of limitations/exclusions. Some of these related to the time or location of the event. But one of them said that there was no cover where the loss resulted from "disease".

The difference between the two policies was that the Type 1 policy, which T had received at the time of the quote, only limited this cover where the disease was one of those listed in the policy. And as this list did not exclude COVID-19, claims resulting from COVID-19 were not prevented by this limitation. The Type 2 policy, which T was issued with when the policy was incepted, included a broader limitation of any contagious or infectious disease. As COVID-19 would fall into this category, claims resulting from COVID-19 would not be possible under this version of the policy clause.

In the previous complaint to the Financial Ombudsman Service, our Investigator said that it was not fair or reasonable for QIC to rely on the Type 2 policy wording. And that the claims ought to be considered under the Type 1 wording. He thought that QIC ought to have told T about the change to the wording if it intended it to apply to the policy T was purchasing. The Investigator said that QIC should reconsider the claims based on the Type 1 policy wording and pay T £150 for the inconvenience caused.

It should be noted that this recommendation was made in May 2023, and QIC accepted that the Type 1 policy wording should apply. However, at this time, QIC disputed that the wording of either type provided cover for claims relating to the pandemic. On a complaint involving a different complainant, I had issued a final decision in February 2023 relating to whether or

not the Type 1 wording did provide cover for claims relating to the pandemic. However, this had not been accepted by QIC at the time of T's previous complaint. Ultimately, though, QIC accepted that the wording did provide cover. And I understand it then settled T's claims, adding interest to the settlement to account for the fact that it ought to have settled this earlier.

T's current complaint is that QIC deliberately switched the policy wordings to avoid liability for T's claims. QIC's explanation was that the policy wording for the product had been changed on 11 March 2020, between the dates of the quote and the policy being issued. It said that the fact the Type 2 wording was issued to T was part of a digital process.

T pursued this complaint with the Financial Ombudsman Service. But our Investigator did not recommend it should be upheld. He thought that the evidence supported that there had been a change made to the wording of the product in March 2020. And that the fact the Type 2 wording was issued to T seemed to be a system error. He did not think there was anything to support that this was a deliberate action by QIC to avoid liability, and pointed to the fact that QIC did not consider until early 2024 that the Type 1 wording did in fact cover the circumstances. So, there would have been no reason for QIC to rely on one wording over the other.

T remained unsatisfied, and so its complaint has been passed to me for a decision. Since then, QIC has confirmed that it is willing to increase the interest added to the settlement to reflect the full period T was without it. This offer was passed to T, but it did not respond.

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 am not upholding main focus of this complaint. I'll explain why.

QIC agree that the Type 2 policy wording should not apply to T, as the terms that ought to apply are those included in the quote which were not then varied by notice prior to T accepting them. The issue I need to determine is whether QIC more likely than not deliberately tried to deal with T's claims under wording that QIC knew did not apply to T's cover.

I should firstly say that QIC itself did not draft the policy wording. The wording was drafted by a managing general underwriter (MGU). The MGU has then sold this wording to a number of different insurers, including QIC. The original wording for the product has been updated on a number of occasions. The Type 1 wording carries a reference that includes "06/17" and is noted to be "Version 1.0". This can be contrasted with the Type 2 wording "03/20" and "Version 3.2".

I agree with our Investigator that this reference indicates the Type 2 wording came in during March 2020. QIC has said that this change was on 11 March 2020. I have no reason to doubt this. And given the numbers in the reference and the fact that this wording did exist by 18 March 2020 (when I understand it was sent to T), I am persuaded that 11 March 2020 is the accurate date.

It is not disputed that T received its quote prior to this. And that the quote used the Type 1 wording. QIC also agree that this is the wording that ought to, and ultimately did, apply to T and its claims. It is also not disputed that T was sent the Type 2 wording, and that QIC also initially dealt with the claims using this wording. This was obviously incorrect.

However, I am not persuaded that this was a deliberate action to try and deceive T, or an action that was intended to allow QIC to avoid liability under the policy.

The main reason I do not consider it more likely than not that there was a deliberate act by QIC is that, regardless of which wording applied, QIC did not consider that the policy provided cover in the circumstances. QIC declined claims from policyholders who had both the Type 1 and the Type 2 wording. So, from its position, there was nothing to be gained by relying on one type over the other.

T has said that QIC's actions were "designed for one reason and one reason only, to avoid paying." But given QIC were not paying claims for either policy, I do not agree that its actions were for this purpose. From QIC's perspective, at the time, there was no need to switch the policy wordings for any claimant.

Given the policy wording most likely changed between T receiving its quote and this quote then being accepted, I find it plausible that there was an error – either a human error or based on QIC's systems, that meant the new wording was then associated with T's profile. Whilst it is accepted that this should not have happened, I have seen nothing to persuade me that this was deliberate.

I appreciate T feels strongly that QIC has acted in a deliberate manner to try and deceive it. But I am not persuaded that this is the case.

QIC did make an error. However, T was previously awarded £150 to compensate it for the inconvenience this caused. And QIC has also settled T's claims, and added interest to this settlement.

QIC has recently increased the amount of interest it is adding to the settlement. Previously, it had only calculated interest from the date of my February 2023 final decision on the third-party complainant's separate complaint. However, QIC has agreed to increase this to account for the rest of the period T was without the money it otherwise would have had if the claims had dealt with as being covered at the time it was made. I consider this increased interest award is fair and reasonable.

However, other than this increase in interest, I cannot fairly and reasonably direct QIC to do more than this in the circumstances of this complaint.

Putting things right

QIC Europe Ltd should pay T £6,761 additional interest to reflect the full period T was without the settlement it otherwise ought to have had.

My final decision

My final decision is that it is fair and reasonable for QIC Europe Ltd to increase the amount of interest already offered to T in line with the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 28 April 2025.

Sam Thomas
Ombudsman