

The complaint

Mrs D, on behalf of her mother (Mrs D senior) and her late father, complains that China Taiping Insurance (UK) Co Ltd has unfairly handled a claim made on their buildings insurance policy.

Mrs D, who I'll refer to throughout this complaint is the representative who has the authority to bring the complaint on behalf of her late father, the policy holder and her mother, who is a joint owner of the property and has an insured interest in it.

What happened

The late Mr D had lived in the insured property alone and in March 2023, China Taiping were notified that he was moving to a care home. The policy renewal was reviewed and an unoccupancy endorsement was added. This had a maximum period of 12 months unoccupancy.

In January 2024, Mr D passed away and Mrs D was able to access the property and found damage which included cracking to some of the walls. This indicated subsidence could be present and she contacted China Taiping to raise a claim. It agreed to monitor the property with a minimum timeframe of six months.

The policy was due to renew after the claim had been raised and China Taiping had been notified that Mr D had passed away. China Taiping reviewed the policy and what it deemed the risk to be, based on the properties condition, unoccupancy and recent claims. It declined to provide cover for the following year. It sent notice of this to the insured property and not to Mrs D directly.

Mrs D complained about the information provided about the claim and the time this would continue to be monitored for. She also expressed concerns about the notice of the policy not being renewed being sent to the insured property and not to her. And that it hadn't provided any information about its decision to take this action.

China Taiping said it didn't think it had done anything wrong with the handling of the claim and the decision to monitor the property before completing any repair works. But it said it was sorry it didn't send the information about the renewal to Mrs D and it offered £50 to recognise the impact of this failing.

With the renewal decision, it said it had thought about whether, based on good industry practice, it should continue to offer the cover. But its decision not to provide cover was not based on the ongoing subsidence claim, but on the continued unoccupancy of the property and the previous claim for theft/vandalism which increased its view of the risk here.

It offered to consider an amount towards the premium paid for any new policy but it had not been able to speak with Mrs D to confirm this and understand what it could offer here.

Our investigator looked at this complaint and explained their investigation and response was limited to the scope of the complaint addressed by China Taiping in its final response issued

on 1 May 2024. They said based on this, they felt China Taiping needed to do something to put things right.

They didn't think the actions taken in relation to the claim and the monitoring were unfair or unreasonable. With the concerns about the cracking, monitoring for a period of time was needed to determine whether the property was moving and if so, to what extent. If Mrs D was unhappy with the response and how the claim was recorded after the monitoring, this needed to be raised with China Taiping in the first instance as a complaint on the claim decision hadn't been raised. But she felt its handling of the claim was fair and reasonable.

China Taiping had accepted there was an error when it didn't provide Mrs D the renewal notice and make it clear it intended not to provide ongoing cover to the property. Our investigator said with it being aware that Mr D had passed away and that Mrs D was the representative for the claim, it should have done better here, even if the letter was generated automatically to the risk address. But it did discuss the reasons why, it was refusing to provide the cover with Mrs D when she called it to discuss this.

Our investigator highlighted concerns about the decision taken by China Taiping not to provide the ongoing cover when there was an open subsidence claim. They referenced guidance provided by the Association of British Insurers (ABI), which set out best practice for insurers dealing with claims for subsidence and the continuation of cover. They felt China Taiping should be following this where possible and it had failed to do this here.

They accepted there was a number of reasons why, the cover had been declined. The main one being the ongoing unoccupancy of the property. When the renewal had been considered in March 2024, the property had already been unoccupied for 12 months but Mr D had only recently passed away a few months earlier. It meant Mrs D as the representative was unable to do anything further with the property. This was because probate was still being sought and this process needed to be followed. And it wasn't because Mrs D wasn't doing something or was adding unnecessary delays. And Mrs D's mother was unable to occupy the property as she was now living in a care home.

China Taiping had the option to extend cover in extenuating circumstances, but it didn't do this, even though it was clear to our investigator that this was applicable.

With this and the ABI guidance on continuation of cover with subsidence claims, they felt it was fair to have expected China Taiping to have provided the ongoing cover, even if with a number of endorsements added.

They highlighted that while Mrs D will have been inconvenienced and significantly with the problems added when the cover wasn't continued, they couldn't take account of their distress and inconvenience. This is because the eligible complainants here are Mrs D (senior) and late Mr D, both represented by Mrs D. We only have the power to make awards for the impact of an error to the eligible complainants and they couldn't recommend anything to be paid to Mrs D.

However, they didn't think it was fair that the complainants lost out if the cost of the policy was greater than it should have been, as a result of the error with China Taiping not providing the continuation of cover.

To put things right and put Mrs D (senior) and the estate of Mr D back in the position they would have been in if there was no error, they said China Taiping should:

- Backdate the continuous subsidence cover from when the renewal was refused – this cover will need to be paid for by Mrs D on behalf of Mrs D (senior) and the late Mr D.

- Calculate the difference between what premium China Taiping would've charged had the renewal been given, and the premium Mrs D paid her new insurer. If the cost of the new policy is more, China Taiping should pay this difference with 8% simple interest.

China Taiping agreed with the recommendation. It said the backdated continuous subsidence cover from 14 April 2024 for a further year would be at a cost of £392 inclusive of insurance premium tax (IPT).

If it had provided cover for the year for the buildings and contents, it would have charged a total of £1,869.24 inclusive of IPT. So if cheaper than what Mrs D was able to source cover for elsewhere, it would refund the difference in premium paid.

Mrs D did not agree with the outcome reached. She said the complaint had not been brought to just put her mother back in the position she should be in, had no error occurred. But to also seek compensation for the poor service and to safeguard her mother's interest's and assets as she is unable to legally act for herself.

Mrs D doesn't think it is fair that she cannot be compensated for the distress added and that her mother is not compensated for this either.

Mrs D also highlighted concerns about the cost of the cover and what China Taiping has said this will cost. She feels it has increased the cost of the insurance it was offering to provide, so the difference between its cost and the new insurer Mrs D found is smaller than it was before. This means it is offering less when covering the difference between the two. She didn't think this was fair and the investigator hadn't commented on the change in price.

Our investigator considered the additional comments made by Mrs D and explained why their opinion remained unchanged.

They accepted Mrs D had spent a considerable amount of time and effort dealing with this claim and complaint, but as a representative, they couldn't make an award for this impact. And although Mrs D's mother is an eligible complainant, they didn't think it was fair to make an award for distress and inconvenience to them when it was Mrs D who had experienced this.

They explained some of the points Mrs D had raised in response to the view could not be considered with this complaint, including:

- How long the monitoring should continue for.
- That China Taiping provide all the documentation and surveys relied on with no charge for doing so.
- How the claim has been recorded and whether an error was made here.

They also said that they didn't think China Taiping had acted unfairly when it included the continued unoccupancy of the property when it provided a quote for the cover this year and price based on this. And it was fair it charged for this and the ongoing subsidence cover it was offering to provide.

Because their opinion remained unchanged, Mrs D asked that the complaint be referred for 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.

I've decided to uphold this complaint, for much the same reasons as our investigator. I know this will be disappointing for Mrs D, but I'll explain why I've reached this decision.

As our investigator has said, I can only comment on the issues raised with China Taiping and dealt with in its final response issued in May 2024.

Claim handling

When Mrs D notified China Taiping of the claim, I think it was handled as expected without any delay added. With the damage described and the visible cracking, subsidence was a concern and China Taiping wanted to be sure the property was stable before thinking about the repair works needed. So opening a claim for potential subsidence and taking steps to assess this were reasonable and I don't think China Taiping did anything wrong here.

Monitoring is needed with claims of this nature and while it feels like a delay is added with this step being taken, I don't think it was unreasonable and China Taiping acted fairly when taking this step. And doing so for a period of six months is a reasonable starting point to help determine whether the property is stable or not.

The claim decision had not been made at the time the final response letter was issued and it might be there is concerns about this at the time. And further monitoring might be required, but I cannot comment on that here, or on how the claim has or will be recorded. If Mrs D is unhappy with anything at this point, a new complaint will need to be raised.

Decision not to provide the renewal

There is no dispute that China Taiping should have done more when it failed to notify Mrs D that it was not willing to provide a renewal for ongoing cover. It was aware that Mrs D was dealing with the matters of the claim and that the house was not occupied and I think it should have taken steps to avoid this happening.

The decision to refuse the renewal is a commercial one, but as our investigator has set out, when making decisions like this and when subsidence is on-going, wider considerations need to be made.

I appreciate China Taiping has said it wasn't the ongoing, open subsidence claim which impacted its decision not to provide cover for another year. But this open claim had a significant impact on Mrs D and her ability to find cover for the property and when it didn't think about this, inconvenience was added.

China Taiping has the ability to do more when there are extenuating circumstances and it is clear in this case, this should have been applied. Had it been, I think it is reasonable to expect it would have offered cover for another year and I agree it needs to do something to put things right here.

Our investigator set out what China Taiping needed to do to rectify this and it has agreed and offered to settle the complaint by offering backdated continuous subsidence cover from 14 April 2024 for a further year, at a cost of £392 inclusive of IPT.

It has also said, had it provided cover for the year for the buildings and contents, it would have charged a total £1,869.24 inclusive of IPT. And it will refund the difference paid by Mrs D if she was able to source cover from elsewhere, but at a greater cost.

I agree this fairly puts Mrs D's mother and the estate of Mr D back in the position they would have been in had China Taiping done what it should have when the policy came up for renewal,

I understand Mrs D has concerns about the cost of the renewal now offered and that this seems to be inflated to reduce the refund it might need to pay to offset what she paid elsewhere. But China Taiping has demonstrated this is in line with its view of the risk and the property now, with both the continued unoccupancy and the previous claim in recent years. I am satisfied it is fairly applying this and not doing anything wrong when setting the price it has. So, I think the offer made is fair and reasonable and I don't think it needs to go further than this.

The impact of this complaint

It is understandable why, with what has happened with this claim that Mrs D feels it is fair that China Taiping compensate her for the time and effort she has spent in dealing with everything. As the executor for her father and attorney for her mother, it will have been distressing to deal with this and at a time in Mrs D's life that was likely very difficult anyway with the passing of Mr D.

However, as our investigator has set out, this Service can only make an award for distress and inconvenience to an eligible complainant. And while it is not disputed that Mrs D as the representative here has been impacted by the claim and its handling, I cannot make an award to her for this. China Taiping did make an offer of £50 to Mrs D, but it is not bound by our rules and it is free to make an award or gesture of goodwill to whoever it sees fit.

When we consider awards for distress and inconvenience, we recognise where the distress and inconvenience, because of the failing, has gone beyond what is reasonable to expect. And this has resulted in the eligible complainant being impacted by the additional distress and inconvenience. Mrs D has undertaken her role in dealing with this claim in her capacity as executor and attorney and in effect, has borne the impact of the distress. So this hasn't been passed on to her mother.

I appreciate the point that Mrs D has made when explaining why she is unhappy about this. Her mother is unable to deal with this claim which is why Mrs D is her appointed attorney and she feels her mother is not being compensated because she has lost mental capacity. And it is unfair that we cannot make an award to Mrs D as the representative.

However, I am afraid we must carry out our function in line with the rules that govern us and this is the case here. Although it is not disputed there has been added inconvenience, Mrs D is not the eligible complainant and no award is made to Mrs D's mother as although she is the eligible complainant, there has been no additional distress or upset experienced by her as a result of the failings of China Taiping.

Putting things right

To put things right, China Taiping will need to do the following:

- Backdate the continuous subsidence cover from when the renewal was refused – this cover will need to be paid for by Mrs D on behalf of Mrs D (senior) and the late Mr D.
- Calculate the difference between what premium China Taiping would've charged had the renewal been given, and the premium Mrs D paid her new insurer. If the cost of the new policy with another provider was more, China Taiping should pay this difference with 8% simple interest.
- Interest should be added from the date Mrs D paid for the insurance with the new

provider, until when the refund is made.

My final decision

For the reasons I've explained above, I uphold Mrs D and the estate of Mrs D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D and the estate of Mr D to accept or reject my decision before 24 April 2025.

Thomas Brissenden
Ombudsman