

The complaint

A limited company, which I will refer to as P, complains about the handling and settlement of its commercial insurance claim by Chubb European Group SE.

What happened

Both parties are aware of the circumstances leading to this point, so the following is intended only as a brief summary of the key events. Additionally, even though various individuals have been involved in the communications, etc. I have largely just referred to P and Chubb for the sake of simplicity.

P is what I will refer to as an engineering company, and held a commercial insurance policy underwritten by Chubb. In February 2024, P was carrying out works for a client and damage was caused to one of its machines. The damage was caused by the fact items being worked on were of an unexpected material. The machine was repaired after around 24 hours, and works on the items recommenced. Unfortunately, following the accident and repair, the machine was incorrectly calibrated, and this was not corrected by the operator. This meant the items were incorrectly machined and could not be used. P was able to correct this issue, and was ultimately able to provide its client with the correctly machined items. However, this was only after P had to carry out significant works which came at a high cost.

P contacted Chubb to claim under the policy for its losses. It should be noted that the email sent to Chubb at this time from P's broker stated:

"We expect this will sit in the Public Liability Section.

We think the loss could also fit within the Property Damage / Stock Section, and also the Contract Works Extension."

Chubb took a long time to deal with the claim, and it was not until around six months later, in August 2024, that Chubb sent its initial response. Chubb said that an exclusion that sits within the Public and Product Liability section of the policy applied, and so declined the claim.

P appealed this, saying that the claim ought to be dealt with under other sections of the policy. Chubb responded in Sept 2024, saying that it was willing to pay for the initial damage caused to the machine, but not for the damage caused to the items P had incorrectly machined nor the costs of rectifying this.

P was unhappy with this, and ultimately brought its complaint to the Ombudsman Service. Our Investigator thought that Chubb had acted fairly and reasonably when coming to its final decision on the claim. But that it ought to have handled the claim better. She recommended that Chubb pay P £200 to compensate it for the inconvenience caused.

P remained unsatisfied with this, and so its complaint has been passed to me for a 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.

Having done so, I have come to the same outcome as our Investigator. I'll explain why.

Firstly though, I will just say that both parties have provided detailed submissions in relation to the claim and complaint. I have considered everything that I have been provided with. But I will not comment on all of this individually. Instead, I will focus on what I consider to be the key issues. This is not intended as a discourtesy, but rather reflects the informal nature of the Ombudsman Service.

I have taken into account the wider circumstances, but the main factor in determining whether or not the circumstances of the claim are covered – in full – by the policy is the contract of insurance itself. The contract of insurance consists of the policy schedule, endorsements, and the policy wording – for the sake of convenience, I will refer to these together as the policy. The policy provides a number of areas of cover. I will touch on several of these, though the main potential area of cover is the Property Damage section.

Business Interruption

The policy includes cover for business interruption losses. Clearly, when the machine in question suffered the initial damage, there may have been an interruption to at least part of P's business. So, I have thought about whether there could be a claim under this section.

However, the policy also says that where business interruption is caused by a breakdown of (non-computer) machinery, the indemnity period does not start for 48 hours. P was able to repair its machine within around 24 hours, so the indemnity period under this section would not have commenced and no claim would be possible.

I have considered whether the results of the business were affected in consequence of the damage for longer than this period. And I recognise that it may have taken P longer than the 48 hours period to correctly machine the items. However, once the machine was repaired, I consider that the initial damage was no longer impacting the business. And I consider that the initial damage here is the only insured damage – I have covered this point in more detail below when discussing the Property Damage section.

Public and Products Liability

The section Chubb initially considered the claim under was the Public and Products Liability section. As above, it should be noted that this was the section P's broker had suggested would offer cover when the claim was made. However, as I have set out below, I do think Chubb ought to have considered the whole policy in order to decide whether P had a valid claim, rather than limiting its response to whether this one section gave cover.

In responding to the claim, Chubb relied on an exclusion within this section of the policy. The exclusion appears to exclude claims where they are caused by the product the claim relates to. In this case, the initial issue and damage to P's machine was caused due to its customer providing a different material to that which P expected. So, there is something of an argument that this initial damage was caused by the product itself. However, I am not sure this exclusion would apply to the entirety of the claim.

More significant to me is that this Liability section would only respond where a claim was being made against P by a third party – as P would need to be legally liable to pay a sum as

damages. In this case, P carried out works to rectify any damage caused to the Products. And its customer did not make any claim. So, there was no sum P was legally liable to pay its customer.

Having had Chubb's initial response, P's broker then itself said that, "the damage would not sit under the liability section." So, it appears there is some agreement that this is not in fact the correct area of cover for this claim.

Ultimately, without any legal claim being made by a third party, and without any sum P became legally liable to pay as a result, this Public and Products Liability section of the policy does not respond to P's insurance claim. So, I cannot fairly and reasonably require Chubb to do more under this section, in the circumstances of this complaint.

Property Damage

The final area of cover that I will refer to in detail is the Property Damage section. This section provides cover where damage is caused to property (including customers' property where this is in the care of P) by "accidental cause not otherwise excluded".

The term "accidental cause" is not defined within the policy. But I consider that a reasonable person reading the contract would interpret this to mean an unforeseen and unintentional cause. This is the definition the Ombudsman Service applies where terms such as this are not defined within the policy.

The initial damage to P's machine was the result of the material of the item being worked on being different to that which P expected. It is not clear that P ought to have known that this was a different material, so this damage might be considered unforeseen and unintentional. And Chubb has accepted that this initial damage could have been by "accidental cause not otherwise excluded" – albeit it has made its offer in relation to this damage on an ex-gratia basis.

However, Chubb considers that the subsequent damage to P's customers' items was due to an excluded cause. And has relied on an exclusion in the policy that says cover will not be provided for damage arising from:

"faulty or defective workmanship, design or materials, misapplication of tools, operational error or omission on the part of the Insured or any of their employees"

The exclusion of claims resulting from, what might be described as, negligence by a policyholder is a reasonably common term in policies of this nature. And I consider this exclusion would clearly have been understood by a reasonable person reading the policy at the time it was entered.

Essentially, Chubb considers that P's employee ought to have properly calibrated – or checked the calibration – of the machine once it had been repaired. And that the failure to do so falls into the exclusion above.

P has said that the employee was shaken up by the incident where the initial damage was caused. And that this was a single error, rather than poor workmanship.

I have thought about P's argument here. But I am not persuaded to conclude that Chubb has not acted fairly and reasonably by applying this exclusion. It does not appear to be disputed that P's employee ought to have checked the calibration of the machine. And I consider that by not doing so and then starting a batch of work, P's employee was acting in a manner consistent with the above exclusion. Whether this was a "single error" or not does not change this.

It should also be noted that this single error appears to have happened around 24 hours after the initial damage. Whilst the employee may have been shaken up by the incident, this does not appear to have been a mistake made in its immediate aftermath. So, even if I were persuaded that it would be unfair to apply the exclusion to an error made in the height of the moment, I don't think that would be the case here.

I do not consider that the initial damage and then the incorrect machining of the items should be considered as one event. The incorrect machining was not proximately caused by the initial damage as P has suggested. There was, in my mind, a clear break in the chain of causation at the point the machine was repaired and, ought to have been, correctly recalibrated. The incorrect machining did not flow unavoidably from the initial damage to the machine.

Taking everything into account, I am persuaded that Chubb acted appropriately by applying the above exclusion to the claim, and I cannot fairly and reasonably ask it to do more in the circumstances.

Claim handling and delays

As I have noted above, whilst P's broker did initially refer to the Public Liability section as being the area of the policy it considered most likely to apply, I do think Chubb ought to have considered the potential claim under the rest of the policy. P's broker did also refer to the other sections of cover when the claim was made. And there is no good reason why Chubb limited its initial response to this single area. I suspect this was the result of different departments within Chubb dealing with the different elements – but this is not a valid reason for not dealing with the whole claim appropriately.

There also does not appear to be any good reason why it took Chubb around six months to provide its initial response to the claim. It took around a month for Chubb to appoint a loss adjuster – and it isn't clear why this took so long. It then took that loss adjuster around four months to provide a report. It isn't clear why this took so long either – and the loss adjuster was acting as Chubb's agent, so it is ultimately responsible for this. And it then took another month for Chubb to provide its response to P. Which did not give consideration to the full claim. And P needed to wait almost another month for this.

Clearly then, there were a number of failings on Chubb's side. I consider it would have been reasonable for Chubb to have considered and responded to the whole claim in around a month or so. So, P experienced a delay of almost six months during the claim process. And it is appropriate that Chubb compensate P for this.

P has suggested that it should be compensated around £2,000 for the delays. And that it has suffered stress as a result of the claim handling. And incurred solicitor's costs.

However, when thinking about compensation, I need to consider the impact on P. I do agree, as I have set out above, that the claim handling wasn't to the level it ought to have been. But I am not aware of any financial losses P incurred as a result of the delays. I consider the solicitor costs to be something P would always have chosen to incur to try and change the claim outcome – rather than as a consequence of the time taken, and I consider the claim outcome ultimately to be correct.

P has said that it could have chosen not to rework its customer's items, and may have incurred a liability claim. But this is not what happened, and I don't think this would have changed even if Chubb had responded within the timeframe it ought to.

The majority of the claim and complaint correspondence – at least that above which would

normally be expected when making a claim – appears to have been from P's broker, rather than requiring P to take a great deal of action of its own.

And whilst I appreciate P's directors will most likely have experienced a great deal of frustration during the claim process, the complainant and policyholder in this case is P itself. P is a legal entity in its own right, and is not capable of experiencing distress. So, whilst P's directors have my sympathies, I am unable to direct any award of compensation for the impact on them.

Taking everything into account, I consider that the appropriate compensation in this complaint is £200. I consider this fairly and reasonably reflects the impact on P as a limited company.

Putting things right

Chubb European Group SE should pay P £200 compensation for the delay and claim handling issues.

My final decision

My final decision is that I uphold this complaint in part. Chubb European Group SE should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask P to accept or reject my decision before 28 April 2025.

Sam Thomas
Ombudsman