

The complaint

A limited company, which I will refer to as E, complains about the decision of Ageas Insurance Limited in relation to E's business interruption insurance claim, made as a result of the COVID-19 pandemic.

What happened

The following is intended only as a summary of the events.

E operates a retail store, and held a commercial insurance policy underwritten by Ageas. The policy offered a number of areas of cover, including for business interruption.

On 9 March 2020, an employee of E apparently displayed flu-like symptoms whilst at the premises – having recently returned from abroad. Due to concerns over COVID-19, and due to the vulnerabilities of some staff, E made the decision to close its premises. Later in March, premises such as E's were forced to close as a result of the government-imposed restrictions relating to the pandemic. E had not reopened in between these dates.

Around 21 March 2020, E's director began to experience symptoms of illness. He was hospitalised on 28 March 2020 and diagnosed as suffering from COVID-19. I am pleased to say that he has seemingly fully recovered.

E claimed for the losses it had experienced as a result of these circumstances. The most relevant term in E's policy provided cover where E's business had been interrupted in consequence of any occurrence of a notifiable disease at the premises. COVID-19 is a notifiable disease. And, having assessed the circumstances, Ageas agreed to settle the claim for around two weeks of E's losses based on a suspected incidence of COVID-19 at the premises – its employee being there on 9 March. Essentially, this was to cover the period between E deciding to close and the introduction of the government-imposed restrictions.

In 2024, Ageas was involved in a court case involving third parties. As a result of the judgment in this court case, Ageas considered that customers who had experienced an occurrence of COVID-19 at their premises may be entitled to claim for the full period of the government-imposed national lockdown.

Ageas contacted E, saying that it had paid E's claim based on there being a suspected case at the premises. But that – in order to provide cover for E's losses for the length of the lockdown – further, contemporaneous evidence was required to establish there had actually been an occurrence at its premises.

E confirmed the evidence that was available. But Ageas said this was not sufficient. E complained about this decision, and the fact that Ageas had previously agreed that it had a valid claim – so should not go back on this just because it was now required to meet the losses for a longer period.

E brought its complaint about this to the Financial Ombudsman Service. However, our

Investigator did not think the complaint should be upheld. He did not think that the evidence was persuasive that the illness the employee had apparently experienced was more likely than not COVID-19. And that the fact E's director had then become ill with COVID-19 did not alter this. Our Investigator said that the timeframe between the employee being at the premises, and the director developing symptoms did not support the director having caught the illness from the employee. So, he was not satisfied that E had demonstrated that there was most likely an occurrence of COVID-19 at the premises prior to the introduction of the government-imposed restrictions. And he did not think the fact that Ageas had previously agreed to settle in relation to the shorter period changed this.

E was not satisfied with this outcome. It pointed out that some people did develop symptoms of COVID-19 between 12 and 14 days after exposure. And that E's director had no high-risk contact after the closure of E's premises in early March. So, E's director could credibly have contracted the illness from the employee whilst at the premises. E also referred to the principle of estoppel to argue that Ageas should not change its approach on the claim being valid.

As our Investigator was unable to resolve this complaint, it 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 am not upholding this complaint. I'll explain why.

Firstly, I'll just reiterate that the above is intended only as a brief summary of the events and arguments. Both parties have made detailed submissions. I have considered all of these, but am focussing this decision on what I consider to be the key issues. This is not intended as a discourtesy, but rather reflects the informal nature of the Financial Ombudsman Service.

In essence, the complaint is reasonably straightforward. Both parties seemingly accept that if it can be demonstrated that a case of COVID-19 occurred at the premises between 5 and 23 March 2020, Ageas should cover E's losses for the period of the national lockdown (subject to the policy restrictions). The issue is limited to whether it is more likely than not that there was such an occurrence.

E's premises were closed from 10 March 2020. So, the window for an occurrence is further limited. And the claim appears to rest on whether the employee who had returned from abroad was most likely suffering from COVID-19.

The evidence relating to this specific individual is limited. There is a WhatsApp conversation from around the time, but this seems to refer to a different member of staff being off sick. No details of this illness are provided though. And evidence relating to the specifics of the illness of the employee returning from abroad are seemingly limited to testimony.

It isn't entirely clear what symptoms this employee was apparently displaying. Reference is to these being symptoms of COVID-19. But many of the symptoms of COVID-19 would also be symptoms of other illnesses – such as cold or flu. And, given these other illnesses were also present in the community, I haven't seen anything that makes me conclude this employee's illness was most likely COVID-19.

I do appreciate the difficulties of providing more evidence of this. For example, E's sickness policy does not require formal written confirmation from a doctor. And even if it did, there

was a lack of testing for COVID-19 at this time. So, it would be difficult for E to provide anything conclusive that the employee had COVID-19. But, there does need to be something that leads to the conclusion that the illness was more likely COVID-19 than something else. And in the absence of this, it is fair and reasonable for an insurer to decline a claim under the relevant policy wording.

The director of E did then develop COVID-19. He received a diagnosis in hospital confirming this. Based on the evidence of this hospital admission, and the director's testimony, it appears he developed symptoms of the disease on (or around) 21 March 2020. So, there is a question of whether he caught this from the employee. If so, the employee would have had the disease whilst at the premises and the policy requirement would be met.

E has referred to the timeline for developing symptoms of COVID-19 following exposure. I note this, and the detailed wider medical publications that exist publicly. Largely speaking, most people who developed symptoms of the variant of COVID-19 that E's director would have had, would have done so within around five to six days of infection.

On this basis, if E's director was infected by the employee on 9 March 2020, he would have displayed symptoms from around 15 March 2020. This is almost a week prior to when he did develop symptoms. So, this does not support E's director having been infected whilst at E's premises.

As E has pointed out though, not all people who were infected developed symptoms in the same timeframe. This did vary. And it is true that some people developed symptoms around 12 to 14 days after infection. So, it is possible that E's director was infected on 9 March and then did not develop symptoms until 21 March.

However, I need to make a decision based on – as E has referred to – what is more likely than not. Given that most people who develop symptoms of this variant of COVID-19 did so in around five or six days, and that only limited numbers of people did so between 12 and 14 days, it is more likely than not that E's director's date of infection was subsequent to the closure of E's premises.

I do note the comments that the director did not expose themselves to high-risk situations after the closure of E's premises. But I do not think this is enough to rebalance the probability that his infection was most likely at the premises.

Taking everything into account, I don't consider E has demonstrated that it is more likely than not that there was an occurrence of COVID-19 at its premises prior to the decision of the UK Government to impose the restrictions that closed E's business from 23 March 2020.

E has argued that the doctrine of estoppel means that, as Ageas accepted the claim for losses up to 23 March 2020, it is effectively bound by this decision. I do note the arguments E has raised, as well as the legal cases referred to. However, I need to consider what is fair and reasonable in all the circumstances of the complaint, and this applies both to the complainant and the respondent. This includes taking into account the law, but is not limited to this. I need to consider all of the circumstances.

In 2020/21, Ageas made a pragmatic decision to meet a claim for a relatively short period based on the limited evidence that was available. It would have taken this decision taking into account the size of the claim being made and the wider issues – including the difficulty of gathering evidence and the number of other customers making claims. This decision was beneficial to E, in that it received some settlement of a claim that otherwise might have been declined.

I do not consider it would be fair and reasonable to require Ageas to meet a substantially greater claim just because it took a pragmatic decision, that was beneficial to its customer, at a point in time where there were other pressures and concerns.

I appreciate this is not the outcome E was hoping for. But it follows that I consider Ageas' decision not to meet E's claim for its losses from 23 March 2020 onwards to be fair and reasonable in the circumstances of this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 30 July 2025.

Sam Thomas
Ombudsman