

The complaint

Miss W, trading as a business I will refer to as S, complains about the decision of QIC Europe Ltd to decline her business interruption insurance claim, made as a result of the COVID-19 pandemic.

What happened

The following is intended only as a brief summary of the relevant events. S operates as a hair and beauty salon, and held a commercial insurance policy underwritten by QIC.

It seems S operates under a form of franchise agreement. In 2020, just prior to the introduction of restrictions relating to the COVID-19 pandemic the franchisor spoke to the company operating as S's insurance broker (which I'll refer to as T). The franchisor then asked:

"Can you send me a paragraph covering what you told me on the call this morning of why salons still won't be insured even though what the chancellor said last night."

T advised that

"...the insurance policies will not respond due to Covid-19 not being a specified disease in the policy wording. In addition to this, denial of access will not come into play, even if the government enforces business closures as Covid-19 is not an insured disease.

... I have come across just 2 different policies that may respond."

It seems this may have been based on information given to T by the company that operates as the administrator of the policy S had. It also seems that the above response was then passed on to S.

S's business was then significantly impacted by the COVID-19 pandemic. However, no claim was made on the policy at that time.

Miss W has said that it was only in June 2024, after watching MP debates, that she became aware that insurers were meeting claims in relation to the pandemic. A claim was then made on the QIC policy.

However, QIC declined the claim. It said that one of the policy conditions was:

"Where an event which could give rise to a claim under this Policy happens You will:

a) tell Us immediately and no later than:

i. 30 days of Your becoming aware of the event or occurrence;

...

If You do not comply with these conditions We will not pay Your claim.”

And QIC said that, as S had not made a claim, or notified QIC of the event, for over four years this condition had not been met.

Miss W complained, ultimately bringing the complaint to the Financial Ombudsman Service. However, our Investigator did not recommend the complaint should be upheld. He thought that the claim had been made late and that this had caused QIC prejudice. He also did not think that T was QIC’s agent, so even if there had been an error by T this was not something that QIC would be responsible for.

Miss W remained unsatisfied, so this 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 am not upholding this complaint. I’ve explained why below.

Firstly, I would like to reiterate that the above is merely a summary. Both parties have provided detailed submissions covering a number of points. However, I have not commented on each of these. Instead, I have focused on what I consider to be the key issues. This is not meant as a discourtesy, but rather reflects the informal nature of the Financial Ombudsman.

Secondly, I would like to express my sympathies with the position Miss W finds herself in. It is clear that the impact of the pandemic on S was significant. And it may be that, had a claim been submitted in a timely manner, the policy might respond to meet some of this loss.

However, it is clear that a claim was not submitted in a timely manner. The policy requires there to be notification within 30 days of the event or occurrence. And whilst I note Miss W’s comments over the pandemic itself and/or the imposition of restrictions serving to provide this notification, I do not agree. It would not be reasonable to expect QIC to be aware of which of its policyholders were impacted. QIC will only reasonably have been aware that the circumstances had impacted S at the time the claim was submitted.

It might not be fair or reasonable for an insurer to apply this 30-day term strictly – regardless of whether it is a condition precedent to their liability. But notification/claim after more than four years is not timely. And I think it is clear that this will have caused prejudice to QIC.

QIC has said that the condition is a condition precedent. This may be correct, but I don’t consider it necessary for me to make a finding on this point. If it is a condition precedent, the legal position is that the insurer does not have to demonstrate that breach of this condition has caused a prejudice. And the onus is on the policyholder to demonstrate that there is no prejudice.

However, when determining a complaint, I need to consider what is fair and reasonable in all the circumstances. And this would include whether it is reasonable to require an “unsophisticated” commercial customer to evidence a negative. (Please note, I use the term “unsophisticated” merely to distinguish between a micro-enterprise specialising in hair and beauty, with a larger commercial entity well versed in contract law/insurance.) So, I will consider the situation more broadly than a court might.

That said, as above, I do consider the late notification to have caused QIC prejudice. A number of reasons for this have been provided by QIC. Much of the focus in the discussion

by Miss W has focused on comments around the accounting information that might be available after a number of years.

However, another of the significant reasons why I consider prejudice has been caused is that insurers will need to effectively budget and forecast. This involves a regular consideration of their potential liabilities, and an estimation of the number of claims that will need to be met and their size. There are strict regulatory rules in place that set requirements around this. Requiring insurers to include the potential for claims of this type being made on historic policies would make this process almost impossible.

Additional reasons include the difficulty of fully investigating the claim at this late stage. As well as potential issues around financial matters, issues with the availability of evidence relating to whether the terms of the insuring clause have been met exist. For example, the FCA's online resource providing details of cases of COVID-19 at various times and locations is no longer available.

So, whilst it is likely that QIC does not technically need to demonstrate that there has been prejudice from the late notification, I consider it has done this regardless. And Miss W has not been able to demonstrate that there has been no prejudice – despite the provision of additional financial information.

This means that there has been a breach of the condition requiring prompt notification, and this has caused QIC's position to be prejudiced.

I have thought about, as Miss W says, the unique circumstances here. It seems S was provided with information from T that led it to believe a claim made in 2020 would not be successful. I make no finding on whether it was reasonable for S to rely on the information it was provided to come to this conclusion. This is because, ultimately, QIC is not responsible for the actions of T. I note that Miss W does not agree that T was not acting for QIC. However, T is an independent insurance broker. And I have not been provided with anything that leads me to conclude T was acting under any delegated authority from QIC. T is responsible for its own actions, and QIC is not responsible for these.

So, whether or not it was reasonable for S to rely on this information to not make the claim in 2020, the fact it was not made for over four years is not the responsibility of QIC. And it would not be fair or reasonable to require QIC to meet a claim because of the potential error of a third party.

As I say, I do have sympathy for Miss W's situation. But I need to come to a decision thinking about what is fair and reasonable for both parties. Ultimately, I do not consider it would be fair or reasonable in the circumstances of this complaint to require QIC to meet a claim for an event that it was not notified about for more than four years. It follows that I consider QIC was entitled to decline the claim, and I do not require it to do more.

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 Miss W to accept or reject my decision before 10 October 2025.

Sam Thomas
Ombudsman