

The complaint

Mr O complains that China Taiping Insurance (UK) Co Ltd reduced the amount payable in settlement of a claim under his property owners' insurance policy and also applied a higher excess.

What happened

Mr O held a property owners insurance policy with China Taiping. The policy covered commercial premises which consists of a takeaway establishment and a residential flat above. The property was let to tenants who moved out in November 2023. It's not clear if the tenants that moved out did so from the whole property or just the takeaway premises.

In May 2024, a fire damaged the property and Mr O made a claim. China Taiping said the property was unoccupied and Mr O hadn't told it about this. It said that if it had known this information then it would have charged a higher premium and would have also applied an excess of £7,500. China Taiping said a proportionate settlement was the available remedy to it, and this meant the claim would be reduced by 44.84%. However, as the proportionate amount payable fell within the £7,500 excess it says it would have charged, no claim payment was due.

China Taiping then applied a mid-term adjustment to the policy for a few weeks so that it would only provide cover for fire, lightning, explosion and earthquake. Although it initially intended to cancel the policy, I understand it instead chose not to offer renewal from October 2024.

Unhappy with China Taiping's actions, Mr O brought a complaint to this service. Meanwhile he arranged to have the repairs completed at a cost of around £10,000.

I issued a provisional decision on 19 November 2025. Here's what I said:

'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Was there a breach of Mr O's duty to make a fair presentation of the risk?

As Mr O held a commercial insurance policy, the relevant law that applies in terms of disclosure is the Insurance Act 2015 ('the Act'). Under the Act, Mr O was required to make a fair presentation of the risk to China Taiping when taking out the policy. That meant he needed to tell China Taiping everything he knew, or ought to have known, that would influence it in deciding whether to accept the risk or not.

In its final response to the complaint, China Taiping said a proportionate remedy was available to it under the Act because Mr O didn't make it aware the property was unoccupied. China Taiping also says there's been a breach of Mr O's continuous duty of fair presentation. However, the Act doesn't place a continuous duty on Mr O. The duty to make a fair presentation of the risk applies before the policy starts (which would include renewals) or when variation of a policy takes place.

The policy renewed on 9 October 2023. At that time the property was occupied. This only changed partway through the policy year. So, I'm satisfied there was no breach on Mr O's part of his duty to make a fair presentation of the risk.

Policy conditions

Although China Taiping referred to the Act in its final response email to Mr O, I see that in its file papers sent to this service, it has referred to some conditions in the policy. I've therefore considered whether these apply.

The Special Provisions section in the policy terms and conditions document says:

'10. Unoccupied/Empty Buildings

- (a) Whenever the Property Insured by this Section is Unoccupied The Unoccupied Buildings Condition will apply
- (b) The Company must be notified in writing immediately any occupied building or occupied portion of a building insured becomes Unoccupied and a suitable extra premium paid if required

'Unoccupied Buildings Condition

It is a condition precedent to liability of the Company that whenever the Property Insured is Unoccupied

- a) the Insured shall notify the Company immediately they become aware
 - i. That the building(s) are unoccupied
- ...
- b) the buildings are inspected internally at least once during each week by or on behalf of the Insured
- c) all trade refuse and waste are removed from the interior of the premises and no accumulation of refuse and waste be allowed in the adjoining yards or spaces owned by the insured
- d) the Insured shall secure the building and seal all letter boxes and put all protective and locking devices and any alarm protection in effective operation
- e) the gas water and electricity supplies are turned off at the mains...and any sprinkler system drained and during the months of November to March (inclusive) the water system drained
- f) the Insured shall implement any additional protections the Company may require within the time scale specified by the Company'

The policy terms and policy schedule contain different definitions of the word unoccupied, but the schedule confirms the definition below applies:

'The word Unoccupied shall mean any Building or part of any Building which is empty or not in use by the Insured or any tenant of the Insured for more than 30 consecutive days.'

As the property (or part of it) wasn't in use by a tenant for more than 30 consecutive days, I'm satisfied that the definition of unoccupied applies here. Mr O accepts he didn't tell China Taiping that the property was unoccupied.

However, I can't see that either condition 10a or 10b was brought to Mr O's attention when the policy was renewed. There's no mention of them in the policy schedule - instead they're contained on page ten of a 37-page policy document. Given that the conditions required Mr O to take certain actions if the property became unoccupied, I think they were onerous and ought to have been brought to Mr O's attention. As they weren't and there's been no

indication from Mr O that he was aware of them, I don't think it'd be reasonable for China Taiping to rely on them.

It's also the case that China Taiping hasn't provided sufficient evidence to support what it would have done differently even if Mr O had known about the conditions and told it the property was unoccupied.

Exclusion and endorsement

The policy schedule also has an unoccupied exclusion, and a separate endorsement relating to unoccupancy. China Taiping didn't rely on them to turn down the claim, so it isn't necessary for me to consider these.

Putting things right

I intend to require China Taiping to refund Mr O directly for the repairs in line with the policy terms without applying a proportionate settlement or the £7,500 excess. Interest should be added at the rate of 8% simple per annum from the date each invoice was paid to the date of settlement.

China Taiping says it refused to renew the policy in October 2024 because the property was unoccupied. But that was only the case because China Taiping had dealt with the claim incorrectly, which meant the repairs were delayed, as Mr O had to arrange these and fund them himself. Mr O says he had problems obtaining cover elsewhere because of the damage.

As the repairs have now been done, I assume the property is now occupied again and Mr O has obtained cover elsewhere. But if he hasn't been able to obtain cover elsewhere, he should let me know in response to this provisional decision and I will require China Taiping to reinstate the policy if Mr O wants this - from the date that he accepts my final decision (assuming the property is occupied).

I think Mr O has been caused unnecessary distress and inconvenience as a result of China Taiping's handling of his claim. He's had to arrange for his own contractors to carry out the repairs, and as I've said, he also experienced issues trying to obtain cover with another insurer after China Taiping refused to offer renewal. So, he had the worry of not having insurance cover for the property for some time too. I intend to require China Taiping to pay him £850 compensation for this.

Mr O says that in the months before the fire, decorative work was taking place at the property. And that the property was being actively marketed and viewings were taking place. He says he's experienced a loss of income because of the fire. China Taiping should therefore consider a claim for loss of rent.

Although China Taiping's handling of the claim delayed the repairs taking place, my understanding is that any settlement wouldn't go beyond the loss of rent limits in the policy, so I haven't taken this into account in this decision. But if my understanding of this is incorrect, I'd be grateful if the parties could clarify this in response to this provisional decision.'

I asked both parties for any further comments they wished to make before I made a final decision.

Mr O responded to confirm he accepts my provisional decision. He also let me know the property is tenanted but he hasn't been able to secure insurance elsewhere.

China Taiping responded with the following main points:

- Mid-term non-disclosure does not negate the variation aspect with the duty of fair representation.
- It says I noted in my provisional decision the unoccupied conditions weren't brought to Mr O's attention when the policy was renewed, and that I thought they were onerous. It says Mr O did not advise it the property was unoccupied, so this particular point is catered for under the explanation and expectations around knowledge within the Insurance Act 2015, so it disagrees with my position on this.
- To avoid a similar situation going forwards, it has a rating guide specifically for unoccupied properties. But it will update its Insurance Product Information Document (IPID) as this currently doesn't highlight any policy exclusions or restrictions in which the unoccupancy condition should be highlighted.

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 remain of the same opinion as expressed in my provisional decision. I'll explain why.

Under the Insurance Act 2015 ('the Act'), Mr O was required to make a fair presentation of the risk to China Taiping. As I pointed out in my provisional decision, the Act doesn't place a continuous duty of disclosure on Mr O. Instead, the duty to make a fair presentation of the risk applies before the policy starts (including at renewal) or when the policy is varied.

The property became unoccupied *after* the policy renewed on 9 October 2023. So, Mr O couldn't have disclosed this at renewal. And as far as I'm aware, Mr O didn't make any changes to the policy in the year following the October 2023 renewal. That means there was no breach on Mr O's part of his duty to make a fair presentation of the risk as there was no variation made to the policy after it became unoccupied.

I therefore remain satisfied that Mr O's complaint should be upheld, and for the same reasons as set out in my provisional decision.

My final decision

My final decision is that I uphold this complaint. I require China Taiping Insurance (UK) Co Ltd to do the following:

- Refund Mr O for the cost of the fire damage repairs in line with the policy terms, without applying a proportionate settlement or the higher excess. Interest should be added at the rate of 8% simple per annum from the date each invoice was paid to the date of settlement*.
- Pay Mr O £850 compensation**.
- Reinstate Mr O's cover if he wants this from the date he accepts my final decision (so long as the property is occupied).
- Consider a loss of rent claim.

- Remove any reference of its decision not to offer renewal from any internal or external databases.

*If China Taiping considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr O how much it's taken off. It should also give Mr O a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

**China Taiping must pay the compensation within 28 days of the date on which we tell it Mr O accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 31 December 2025.

Chantelle Hurn-Ryan
Ombudsman