

The complaint

A partnership, that I will refer to as P, and a limited company, that I will refer to as L, complain about the settlement of their business interruption insurance claim, made in relation to the COVID-19 pandemic, by QBE UK Limited.

What happened

The following is intended as a brief and somewhat simplified summary of the circumstances of this complaint.

The complainants in this case are P and L. It seems that, largely speaking, neither of these continues to be very active. However, both were policyholders and neither has officially ceased to exist. The businesses operated in similar, but separate markets. The matters involved in this complaint relate to both P and L. And the partners in P, are the directors of L. For the sake of simplicity, other than where necessary, I have referred to P and L together as S. Additionally, whilst a number of parties have been involved, again for the sake of simplicity, I have just referred to QBE, S, and their accountant – that I'll refer to as M.

S held a commercial insurance policy underwritten by QBE. As a result of the COVID-19 pandemic, S suffered an interruption to their businesses and they claimed on their policy. Ultimately, QBE agreed that the claim was covered and asked for information relating to the losses S had experienced.

S appointed M to act on its behalf in regard to this. And there followed a lengthy exchange of correspondence between M and QBE. The settlement amount was eventually agreed in relation to the majority of aspects. However, QBE did not agree to cover the full cost of the fees M was charging in relation to the work provided. M's invoice was for around £12,000 (excluding VAT), but QBE would only agree to pay £5,350 of this.

S's policy contains the following:

- “a) Any particulars or details contained in your books of accounts or other business books or documents which we may require for the purpose of investigating or verifying any claim made under this policy may be produced by professional accountants if at the time they are regularly acting as such for you and their report will be the basis for evidence of the particulars and details to which such report relates, unless any such contradictory circumstance or evidence is apparent in which case the onus to provide the loss will be upon you.
- b) we will indemnify you for the reasonable charges payable by you to your professional accountants for producing such particulars or details or any other proofs, information or evidence as we may require and reporting that such particulars or details are in accordance with your books of account or other business books or documents.”

And QBE effectively relied on this, saying that not all of the work M was billing for fell within this cover.

S were unhappy with this, ultimately bringing their complaint to the Ombudsman Service. But our Investigator considered that QBE's offer was fair and reasonable, and was higher than was seen in other cases of a similar nature.

S responded, saying that M had billed separately for the 'claims management' work that it had provided. And that, amongst other things, the higher cost being billed for in relation to accountancy work was the result of QBE's excessive requests for information.

As our Investigator has been 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.

The first point I need to make is that the complainants in this case are S. I note that they have also appointed M to act as their representative in relation to this complaint. And M has referred to the amount of work required in terms of this. However, it is not necessary for a complainant to obtain professional representation when bringing a complaint to the Ombudsman Service. And I am unable to consider any inconvenience or cost incurred by M in this regard, in the circumstances of this complaint.

My role in relation this complaint is to consider whether the offer made by QBE in relation the accountancy fees is fair and reasonable.

The policy wording above sets out what is claimable under the policy. It is noted that there is additional similar wording within the policy, but like the Investigator, I do not consider this adds anything material in the circumstances.

All parties also seem to agree that claims management isn't something the policy provides cover for. I would say that, in some circumstances, I may find that it is reasonable that a claimant needs to instruct a third party to act as their loss assessor in relation to a claim, and that the insurer needs to meet at least some of these costs. However, I do not consider that to be the case here. Many customers make use of loss assessors, and this often assists them in their claim. But this does not mean this is a cost an insurer needs to meet. Whilst S (and the individuals involved) may not be financial or legal experts, I do not consider that the circumstances of their claim necessitated a loss assessor that QBE would be required to fund.

S did instruct M to provide certain services, much of which might be described as being those a loss assessor would provide. However, M has said that it has billed for these separately. And that the disputed costs relate solely to the 'accountancy' work provided – and S considers this should fall under the wording above.

M has said that it was inundated with requests for data. Providing responses to these, along with explanations of how the figures were calculated, is something that would fall under the policy. But I am not persuaded that the requests for data were overly excessive.

Much of the other work M carried out would likely fall within the remit of claims management work. And it isn't clear what work has been paid for by S directly as this claims management work, and what is being claimed for by S under the policy as 'accountancy' work.

I do note that QBE has said that the claim was complex. It involved more than one business suffering loss and required a separation of different work streams, and adjustments for different accounting periods. However, even with these complexities, it is difficult to see that M was required to provide a significant amount more information that is seen in other similar claims.

And I agree with the Investigator that fees for providing the required “particulars or details or any other proofs, information or evidence” in a claim of this nature do not generally rise above the costs agreed by QBE. More usually these costs are significantly lower. And I am not persuaded that the circumstances of this claim meant significant additional work, or associated costs, were reasonably required.

The policy provides that QBE will pay the reasonable charges incurred. Taking account of the information QBE requested in relation to the claim, I consider that the offer it has made for the cost of providing these is appropriate. So, whilst I appreciate that it will come as a disappointment to S, it follows that I cannot fairly and reasonably ask QBE to do more 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 P and L to accept or reject my decision before 22 March 2024.

Sam Thomas
Ombudsman