

## **The complaint**

A limited company, which I'll refer to as M, complains China Taiping Insurance (UK) Co Ltd ("China Taiping") has unfairly declined a claim made on a commercial property insurance policy.

Mr H brings the complaint on behalf of M as its director.

All references to China Taiping are intended to include the actions of its agents.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them in full again here. What follows is only intended to be a summary of the key events that led to this complaint.

M suffered a fire at its premises and made a claim on the policy to China Taiping.

Having instructed an expert and investigated the cause of the fire, China Taiping declined the claim stating a condition precedent in the policy had not been met. This related to items being needing to be left to cool fully before being stacked. Here it believes items that were placed on top of machines were stacked while still warm and that is what led to the fire igniting. As a result of this, it declined to meet the claim under the fire section of the policy.

M disagreed, it provided its own expert report to China Taiping for it to consider. It complained about the decision to decline the claim but ultimately China Taiping did not change it. So, M brought the complaint to this service.

Our investigator looked into the complaint and explained to M she thought China Taiping was entitled to decline the claim and had done so fairly and reasonably.

M disagreed and asked for the complaint to be reviewed by an ombudsman. It maintains that the items were cool before they were stacked and there was a different cause of ignition. It believes the condition precedent was met and China Taiping should meet the claim under the policy.

The case has been passed to me to decide.

## **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.

I understand Mr H has strong views about what has happened. I want to assure him I've read and considered carefully everything he's said. However, my findings focus on what I consider to be the central issues, and not all the points raised. This isn't meant as a discourtesy. But the purpose of my decision isn't to address every single point the parties have raised or to answer every question asked.

My role here isn't to decide what caused the fire. Rather it is to consider the evidence presented by Mr H, and by China Taiping and to decide if I think China Taiping have acted reasonably in declining the claim in line with the terms and conditions of the policy.

Having read through all of the evidence and arguments available to me, I agree with the conclusions reached by the investigator for the following reasons:

- The policy contains a condition precedent which must be met before any cover is provided by the policy. Here that states, *"It is a condition precedent to the liability of the company that all items which have undergone any process at the premises are allowed to individually cool fully before piling stacking or packaging"*.
- The fire brigade attended the incident and produced a report which cites the source of ignition to be *"Other (self-heating)"* and the item/material damaged first to have been *"Clothing/Textiles – Other textiles"*.
- China Taiping instructed an expert ("B") to provide a report on the fire and its likely cause. M also obtained a report. I can see that China Taiping sent the report from M on to B and asked for its comments, as I would have expected it to do. And I can see the response from B, analysed in detail what had been put forward and provided its own commentary.
- China Taiping isn't an expert in fire related damage and its causes. So, I don't think it was unreasonable for it to instruct an expert. Or do I think it unreasonable for it to rely on the opinion of that expert. I think it is reasonable for it to do so unless it can see the opinion of that expert is obviously flawed or wrong. Having read the initial report B provided as well as its further commentary on the report M provided and additional points, I think it was detailed and well-reasoned. It set out what it believed the likely cause of the fire and responded to the points that had been put forward. From this I think it was reasonable for China Taiping to conclude that the condition precedent hadn't been met and I don't think it is obvious that the opinion is obviously flawed or wrong.
- I have considered the report M has provided and its further commentary, however as I set out at the start of this decision, it is not my role to decide how the fire started. Having reviewed everything available to me I'm persuaded that China Taiping has fairly and reasonably approached its consideration of this claim. The report from the fire brigade, as well as the information provided by the expert it approached, supports its decision to decline the claim. So, I don't think it has acted unfairly or unreasonably in doing so here.
- M has suggested it now has further evidence for China Taiping to consider. This has not been considered under this complaint. M would need to present this to China Taiping in the first instance. If it remains unhappy with any response China Taiping gives, it would be entitled to complain about that and then escalate the matter to this service in the normal way if required.
- M has commented about how the policy was sold to it. Any complaint about these matters would need to be raised with the party that sold the policy

For the reasons above, I do not uphold this complaint.

### **My final decision**

My final decision is that I do not uphold M's complaint against China Taiping Insurance (UK)

Co Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask M to accept or reject my decision before 8 November 2023.

Alison Gore  
**Ombudsman**