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Dear <INSERT CUSTOMER NAME>

**Update on Financial Conduct Authority (FCA) Court Action**

**Claim No:** <INSERT CUSTOMER CLAIM NUMBER>

We write with reference to our previous correspondence declining your claim for business interruption losses under the non-damage prevention of access section of your policy. As you are aware, we recently agreed to participate in a ‘Test Case’ with the FCA to resolve contractual uncertainty in selected business interruption insurance policies relating to Covid-19 losses. The Test Case Judgment was published on 15 September 2020.

**The outcome**

The Judgment stated that Ecclesiastical’s business interruption policies do not cover losses arising from Covid-19 and therefore your claim is not covered under your policy. We recognise that whilst the ruling supports the position we have taken, the outcome will clearly be disappointing to you. We are very mindful that this is an unprecedented situation that has been tough for customers and we wanted to engage positively in the legal proceedings so we could gain maximum clarity for all in the shortest amount of time.

**Next steps**

While the Judgment provides that clarity, appeals can still be made by the FCA and other parties in the Test Case. We’ll continue to update our website and if anything significant changes, we’ll also write to you.

**More information**

If you would like further information on the background to the Test Case you can find details on the FCA’s website: [**www.fca.org.uk/firms/business-interruption-insurance**](http://www.fca.org.uk/firms/business-interruption-insurance) and our website [**www.ecclesiastical.com/latest-news/fca-test-case**](http://www.ecclesiastical.com/latest-news/fca-test-case)**.** We have also enclosed a short key questions and answers document for your information which we hope is helpful.

Kind regards,

Ecclesiastical Claims

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**Background Q&As**

**What was the FCA Test Case about?**

Due to the pandemic, a number of questions were raised by customers across the insurance market as to whether their business interruption policies covered them for Covid-19 losses. Because of this, eight insurers including Ecclesiastical Insurance, agreed to take part in a Test Case with the FCA to clarify whether policyholders were or were not covered. The FCA described this as:

*“The proceedings to resolve uncertainty as to whether certain non-damage business interruption insurance policies respond to claims related to the coronavirus pandemic….acting in the public interest, the FCA will put forward policyholders’ arguments to their best advantage. We are aiming to obtain legal guidance in this way more quickly and at a lower cost to policyholders than would be the case if they took their own court actions”.*

**What policies were examined in the Test Case?**

The Test Case was designed to analyse a number of policy wordings which were representative across the insurance market. The FCA defined a ‘Potentially Affected Claim’ as:

“*A claim made under a relevant non-damage business interruption policy for losses relating to the coronavirus pandemic where the outcome of the claim, including issues of causation, may be affected by the final resolution in the test case, whether or not the insurer has declined the claim by issuing a declinature letter or has made an adjustment or deduction for general causation.*”

Your claim fell within the above definition and was therefore impacted by the High Court Judgment.

The FCA also commented:

*“Policyholders should not assume that simple inclusion of their policy wording in this case will mean their policies are responsive. We are seeking a judgment that will help policyholders and insurers have a much clearer view of which business interruption policies respond to the pandemic, and those that don’t. Therefore, the court may well decide a number of these policies respond to the pandemic and others do not.”*

**What was the outcome of the Test Case for your policy?**

The High Court Judgment published on 15 September 2020 stated that Ecclesiastical’s business interruption policies do not cover losses arising from the Covid-19 pandemic and therefore your claim was not covered under your policy. We recognise that whilst the ruling supports the position we have taken, the outcome will clearly be disappointing to you.

As the FCA indicated before the Test Case, the Court decided that some of the policies under examination did respond to the pandemic and some did not. Our policies were in the category that did not respond and therefore Covid-19 claims were not payable.

**What happens next?**

The High Court Judgment has now clarified the position in relation to your policy. As with any legal process, the Judgment could potentially be appealed if an application is made by the FCA or other parties involved in the Test Case and the Court grants permission to do so. We will continue to keep our website updated and if anything significant changes, we will also write to you.

**Where can you find further information?**

If you would like further information on the background to the Test Case you can find details on the FCA’s website: [**www.fca.org.uk/firms/business-interruption-insurance**](http://www.fca.org.uk/firms/business-interruption-insurance)**.** We will also keep customers updated via our website [**www.ecclesiastical.com/latest-news/fca-test-case**](http://www.ecclesiastical.com/latest-news/fca-test-case/)