

More publicans come forward to complain about FBD assurance

Insurer declines to pay out and claims ‘a pandemic is simply not an insurable event’

[Peter O'Dwyer](#) Sunday Business Post 7th June 2020

FBD gave a series of publicans guarantees that losses incurred specifically as a result of the outbreak of Covid-19 would be covered by their business interruption policies, according to documents seen by the *Business Post* and the statements of several business owners.

In March, the Business Post revealed that FBD had provided a written assurance to one publican that their business interruption policy was “covering coronavirus” specifically, but later withdrew that assurance.

Documents now seen by this newspaper and interviews with several publicans across the country show that this was more widespread in early-to-mid March than previously known.

Five more publicans – based in Cork, Limerick, Galway and Dublin – have said they too were assured that their business interruption policies with FBD provided cover for losses arising as a result of the novel coronavirus. FBD has since declined to pay out on such policies and the issue is now before the courts after some of those involved took legal action.

Aidan McIntyre, the managing director at McDonagh’s, The Thatch Bar in Oranmore, Co Galway, said he asked FBD through his broker at the beginning of March if his policy would provide cover in the event of the bar being closed as a result of Covid-19. He said he was told it would.

“They had their opportunity [at the start of March] to give me a negative response, which they didn't do – in fact then they gave me a positive answer on email,” he said. Email correspondence between McIntyre, his broker and FBD show that an underwriter at the insurer confirmed that the bar “would be covered” once the claim met the terms and conditions of the policy. These would include the business being forced to shut by government, which the insurer has since accepted is the case.

Notifiable diseases

The underwriter highlighted that some policies only listed specific notifiable diseases that were covered, but confirmed that the Vintners’ Federation of Ireland (VFI) policy under which McIntyre’s policy was written included no such specified list of covered diseases.

The broker informed McIntyre that the underwriter had referred the query to a “senior colleague” before confirming that cover was in place.

A statement of claim lodged by Hyper Trust Ltd, trading as the Leopardstown Inn, which has been seen by the Business Post, says that on two occasions in mid-March FBD representatives “expressly acknowledged the obligation” on FBD’s part to pay out on its claim under the bar’s business interruption policy.

In a statement issued to this newspaper, the Loyola Group, which owns Hyper Trust, said it had lodged legal proceedings against FBD which were before the courts and as such it was not appropriate to comment other than to say that it was “satisfied that FBD’s approach is wrong, and after a long history of doing business and a trusted relationship with FBD we are shocked and disappointed to be let down when we need our insurance most”.

Paul Montgomery, a high-profile Cork publican, said he, his financial controller and another employee were reassured by FBD on several occasions via phone that the insurance policy on Clancy’s Bar in the city provided cover in the event of the business being shut as a result of the coronavirus.

“At all times, FBD led us to believe we had a valid claim until the formal letter issued from FBD denying cover,” he said. Montgomery said he was encouraged to lodge a claim, which he did. It was subsequently rejected by FBD.

Paul Sheehan, the third-generation proprietor of Sheehan’s Bar on Chatham Street in Dublin city centre, said he too was assured by an FBD employee, on March 12, that his policy would provide cover in the context of the coronavirus if the pub was forced to close.

A few days after being forced to close on March 15, Sheehan rang the FBD employee again and was told that the insurer had “changed their mind”, he said.

In subsequent phone conversations with the same employee, Sheehan said he was told that even though his policy did not provide cover for the closure, he “would have to be dealt with in a different way” because of the previous assurance he had been given, Sheehan said.

When he asked for an email from the employee, with whom Sheehan said he enjoyed a good relationship, the FBD staff member told him he couldn’t write such an email, but pledged to honour the conversation if he was asked about it.

Sheehan has had his claim rejected but has resubmitted it, he said.

“Before this happened, I would have to say that FBD have been a very, very honourable company. I’ve always had good dealings with them – never had an issue in any way, shape or form – but this is definitely leaving a very, very sour taste. To be told that there’s cover there and then to have it taken away – I just can’t see any reasoning for it,” he said.

Noel Nicholas has owned the Horse & Hound Bar on Musgrave Street in Limerick since 1977. He too was told, on March 6, that his policy would cover the business provided it was forced to close by a local authority, the HSE or other government body as a result of the coronavirus, he said.

Nicholas was also urged to submit a claim, he said, which he did. It was later rejected.

A test case has already been taken by four pubs against FBD. A fifth case, taken by Lemon & Duke, was adjourned in late May for two weeks to allow for mediation but is listed for hearing before the Commercial Court again tomorrow.

In a statement, FBD said it was not appropriate to discuss “individual instances” as legal proceedings were under way.

“We fully understand differing points of view exist on our business interruption cover. However, FBD is clear on our responsibilities as they relate to business interruption in our insurance policies. This is a matter that is the subject of legal proceedings and FBD will be guided on how it is determined by the courts,” the insurer said.

It added that protection against a pandemic or measures taken “at a societal level to contain a pandemic” was not a risk provided for within its “risk appetite”.

“A pandemic is simply not an insurable event as a broader market offering for FBD Insurance. The business interruption clause listed in our insurance policies is provided for a different set of circumstances localised to individual premises,” the company added.