

The complaint

Ms O and Mr S's complaint is about Liverpool Victoria Insurance Company Limited's handling of a claim under the legal expenses section of their home insurance policy.

Liverpool Victoria use claims-handlers to deal with claims and complaints on its behalf but for ease, I will refer to Liverpool Victoria, as it is responsible for its claims-handlers actions.

What happened

In September 2019, Ms O and Mr S contacted the legal helpline provided with the policy as they wanted to make a claim for cover in relation to a neighbour dispute. Their neighbour was obstructing their right of way with their cars and by erecting a fence, causing them nuisance. Ms O and Mr S had contacted the policy helpline about issues with the same neighbour in 2017 but had not wanted to pursue any action at that stage.

Liverpool Victoria's panel solicitor, that provides the helpline, carried out an assessment of the claim. They refused the claim initially as they thought the incident giving rise to the claim had started before the policy. This was not the case and Ms O and Mr S provided further information to confirm they'd had the policy since 2010, which was well before the dispute had started. However, in the meantime Ms O and Mr S instructed a solicitor themselves and incurred legal costs of £720. Their solicitor apparently said they had good prospects of succeeding in their claim.

Liverpool Victoria says this advice on the prospects of the case was subject to a number of caveats and the solicitors also said the advice would depend on the outcome of a surveyor's report. However, Liverpool Victoria agreed that panel solicitors would be instructed to assess if the claim had reasonable prospects and to progress the matter if they were satisfied it was covered under the policy. They were instructed at the beginning of December 2019.

However, Ms O and Mr S were unhappy with the panel solicitors and complained about them in May 2020. Liverpool Victoria initially said that as they were unhappy with the proposed action the solicitors wanted to take, it could not answer a complaint about the solicitors as they are regulated by their own professional body and act independently. However, it did ask the panel solicitors for an update on the case and confirmation that the case has reasonable prospects of success, a pre-requisite of cover under the policy.

Ms O and Mr S remained unhappy with the panel solicitors and made a formal complaint about them in July 2020. They asked if their own solicitor could act. In the meantime, I understand the fence was removed in February 2020 but was then reinstated in July 2020 (and is still there now).

The panel solicitors confirmed the claim had good prospects and proceedings would be necessary. Liverpool Victoria therefore agreed to Ms O and Mr S's chosen solicitor acting for them. However, Liverpool Victoria asked the solicitors to agree to certain terms which they said were not acceptable (such as no interim payments of costs, among other things). It was therefore agreed that they would instruct a new panel solicitor.

The second panel solicitors provided a report on the claim in early September 2020 and said prospects of success were 50% (below the policy requirement of 51% or more) but recommended that the claim be accepted for further investigation and asked for a surveyor's report to be carried out in order to complete the assessment. Ms O and Mr S were told they would have to pay for the surveyor.

Ms O and Mr S complained about the second panel solicitors. They say they failed to provide their report on the case within an agreed time. They are also unhappy about being asked to pay for a surveyor's report, as this should have been obtained by the first panel solicitors. Ms O and Mrs S say they expected the second panel solicitors to just get on with the case but instead Liverpool Victoria asked them to assess the case again, which was unnecessary. Ms O and Mrs S asked to use their own solicitors again, as they had lost faith in Liverpool Victoria's panel solicitors. Ms O and Mr S made another complaint in December 2020. Then on 18 February 2021, Liverpool Victoria confirmed they had the freedom to choose their own representative albeit a legal assessment would be needed by a barrister.

At the time they first brought the complaint to us, in March 2021, Ms O and Mr S asked for their claim to be authorised and for their own solicitors to act. In the meantime, matters have progressed and moved on considerably.

In July 2021, a barrister reviewed the case and said he thought there were 60 – 65% chances of success on the right of way and trespass (from an overhanging garage). He recommended funding for a site visit. The barrister and solicitor attended the property in September 2021 and reaffirmed his opinion on the case. As a result of this they sent a new letter of claim to the neighbour. I understand it was confirmed by Liverpool Victoria in September 2021 that there would be cover to issue the court proceedings. The solicitors issued a letter of claim to the neighbour and, as the neighbour did not respond, they drafted the relevant court papers. I understand they were aiming to issue the court proceedings in January 2022. There was a meeting between the parties and their representatives in February 2022, at which it was agreed that a surveyor's report would be obtained.

As the matter has moved on, Ms O and Mrs S have now asked for considerable compensation (including loss of earnings for Ms O) for the delays in the case, as they say the neighbour dispute would have been resolved in their favour a long time ago and they would have been spared the ongoing stress if it were not for failures by Liverpool Victoria.

Liverpool Victoria acknowledged that the claim was delayed unnecessarily in their first final response letter dated 7 September 2020 and offered to reimburse the £720 Ms O and Mr S paid for legal advice. However, it says it is not responsible for the way the legal claim was handled by any of the solicitors involved and says it dealt with matters promptly and reasonably when it was aware of them.

Liverpool Victoria says the policy provides cover for disbursements that are necessary as part of the legal proceedings but will not cover the cost of investigations into whether a policyholder has a legal claim or not. It says that if the second panel solicitors advise the claim has reasonable prospects and is proportionate to run then it will confirm cover but this is reviewable throughout the life of a claim. The second panel solicitors were therefore required to assess the claim. And in any case, solicitors would always conduct their own assessment.

Our initial conclusions

One of our Investigators looked into the matter. She thought Liverpool Victoria was responsible for a total of around eight months delay in the case progressing. However, the

Investigator didn't think there was enough evidence that the matter would have been resolved if it were not for these delays, given the pandemic and effect this had on the court system at the relevant time. The Investigator also said that as Ms O had already been signed off work in September 2019, she was not satisfied that her being unable to return to work was solely due to the delays by Liverpool Victoria.

Having considered everything, the Investigator recommended Liverpool Victoria pay £1,500 compensation to reflect the distress and inconvenience caused by its handling of the claim.

Ms O and Mr S do not accept the Investigator's assessment, as the compensation does not adequately reflect the trouble caused to them and put them back in the position they would have been in had the delays and mishandling of their claim not occurred. Ms O and Mr S have made a number of submissions in support of their initial complaint and in response to the Investigator, which I've summarised below:

- They were misled over how the insurer and the panel solicitor would handle the claim and no surveyor's report was instructed.
- The panel solicitors sent a letter threatening action against the neighbour, if they didn't remove the fence. But it was not followed up with any legal action, so their neighbour became emboldened and added further obstructions in the driveway.
- They needed prompt action to get an injunction against the neighbour but the delay meant the chance to do this was lost and the failure to get the injunction (as commented on by their barrister) may affect the success of their legal case.
- Their own solicitor would not act as they could not agree to Liverpool Victoria's restrictive terms of appointment, including an hourly rate below that of a qualified solicitor. Liverpool Victoria knew the policy would cover the County Court guideline rate for a qualified solicitor, so this is tantamount to fraud.
- They asked for their solicitor to be authorised to act in order to take prompt legal action but Liverpool Victoria deliberately ensured they would not be willing to act for them. As their own solicitor wouldn't agree Liverpool Victoria's restrictive terms, they had no option but to accept another panel solicitor. However, Liverpool Victoria did not convey to the new panel solicitors the urgency of the situation and failed to disclose a number of key documents. These documents would not be in Liverpool Victoria's favour and so they consider this to also be a deliberate act of fraud.
- They want the surveyor's report and a valuation of the diminution of value of their home paid for under the policy.
- Their own solicitor was able to meet face-to-face and assess the case within an hour or so but the panel solicitors took four and a half months.
- They requested a face-to-face meeting with the first panel solicitors, they said they would arrange this but it never happened.
- Ms O's needs as a disabled person have not been respected and reasonable adjustments (including having a face-to-face meeting) have not been made.
- By February 2021, it was still not confirmed that their claim would be covered and they have had to ask repeatedly for clear confirmation it would be covered.
- The insurer won't confirm whether they will definitely cover all legal costs/solicitors fees - they keep being vague, saying they'll 'assess' this.
- Ms O and Mr S also want to take action against their neighbour for harassment. Liverpool Victoria told them that while the policy does not provide cover for stand-alone claims in harassment, it would consider tagging it onto another claim. So it could be added to the nuisance claim. They have plenty of evidence to support the harassment claim and as its representative told them it would be covered, Liverpool Victoria should confirm that it will honour that so that counsel can include the harassment element in the particulars of claim.
- Liverpool Victoria is required to instruct suitably qualified lawyers but the first panel

solicitor allocated their case to an unqualified paralegal. They had already provided an opinion from a properly qualified and experienced specialist property solicitor in Autumn 2019, who had already assessed (before even the neighbour installed their additional fence obstruction) that they had a good case.

- Insurers must also be responsible for ensuring that their chosen panel solicitor firm adheres to the terms of the insurance policy and FCA principles when carrying out work on behalf of the insurer. The panel solicitors failed to do so and this has not been addressed by the Investigator and no compensation offered for the damage and distress caused.
- They only agreed to the appointment of the insurer's panel solicitor firms as they had a reasonable expectation that they would be of a suitable quality to handle our claim and because they expected the claim to be progressed rapidly and seamlessly.
- The merits of their claim may be adversely affected by the delay in pursuing the court proceedings.
- Their claim could've been brought to a successful conclusion over a year and a half ago. Instead, they are in a much worse position than before they started the process.
- Having no access to their right of way has reduced the value of their home and causes significant inconvenience every day: they cannot access their car properly and the "*additional shunting*" to get the car out is causing damage to their driveway.
- They have both been caused a huge amount of unnecessary distress and anxiety by the delays, poor advice, constant changes of mind and the state-of-limbo, while also dealing with an aggressive, abusive, unreasonable neighbour.
- This distress has been magnified for Ms O given her disability (an anxiety-disorder) which Liverpool Victoria and solicitors were aware of at an early stage.
- Liverpool Victoria has breached the Financial Conduct Authority's ("FCA") principles for businesses and other relevant insurance and consumer law and has committed fraud but this has not been acknowledged or addressed by the Investigator.
- And it has failed in its obligations to treat the case with priority under the Equality Act 2010 needed to be handled quickly and efficiently from the start to avoid causing her any further injury/detriment.
- The Investigator has totally dismissed the impact of the repeated mishandling on Ms O's health, wellbeing and ability to work.
- Some of the impact on them will not be known until the conclusion of the legal proceedings.
- Despite the urgency of the situation and the ongoing detriment to them both, Liverpool Victoria took the full eight weeks to respond to their complaint but the Investigator failed to acknowledge Liverpool Victoria missed the complaint response deadline, that it mishandled the complaint and that it has still not reimbursed their solicitor's costs (which should be paid with interest). The mishandling of the complaint process has exacerbated the stress for them.
- Having to engage with all the different entities involved with the claim and complaint, and having to repeatedly revisit the issues, is extremely stressful and time consuming.
- Ms O has been unable to return to work as a result of this ongoing issue and so has lost significant income. They ask what evidence would be accepted to prove this loss of income (e.g. medical reports).
- There is also a second issue in relation to their property boundary that needs to be dealt with. Legal advice has been to keep that issue separate from the current one and to only begin to tackle it after conclusion of the current issue. Therefore, until the current issue is resolved they cannot even begin to address that issue, which is another cause of stress and anxiety to them.
- The insurer's legal helpline completed a telephone claim form on their behalf, which they submitted for an insurance assessment. The claim form was inaccurate. This was breach of General Data Protection Regulations ("GDPR").

Ms O and Mr S have submitted a schedule of loss they say is a direct result of Liverpool Victoria's handling of the claim. This includes additional damage to their property; diminution of value of the house because of the legal dispute (which will take longer to recover due to the delays by Liverpool Victoria); loss of earnings of just under £40,000 and also loss of pension; £10,000 damage to Ms O's employment reputation due to the time off work; and distress and inconvenience (as a result of additional time involved in dealing with the matter, dealing with the obstructions at home etc) to them both of over £11,500.

Liverpool Victoria doesn't accept the Investigator's assessment either, as it says it is not responsible for the actions of any of the solicitors involved. It accepts there was a delay of around a month due to the misinformation at the outset but, as Ms O and Mr S were able to get legal advice which they've now offered to pay for, it doesn't think this caused any detriment.

It appointed panel solicitors in December 2019 and didn't hear anything more until May 2020, when Ms O and Mr S asked for details of its complaint procedure which was provided. Ms O and Mr S's full complaint to Liverpool Victoria was not received until mid-July 2020, so it couldn't have done anything more before then. It was not clear what the issues with the panel solicitor were and Ms O and Mr S made clear they did not want Liverpool Victoria to treat the matter as a formal complaint until they had clarified their points in writing. Liverpool Victoria asked panel solicitors for details of their response to the complaint a few days after receiving the complaint letter from Ms O and Mr S. And as the panel solicitors confirmed proceedings were likely to be needed soon and the case had reasonable prospects it agreed to Ms O and Mr S's own choice of solicitor going forward. Liverpool Victoria says it sent terms to them on 27 July 2020 and it could not have acted any quicker than this. As the solicitors wouldn't agree the standard terms, they instructed second panel solicitors on 19 August 2020. As prospects have to be assessed on an ongoing basis, the solicitors tried to assess the case but Ms O and Mr S didn't provide the information they asked for to enable them to do this.

As they remained unhappy, Liverpool Victoria says it asked for details of another non-panel solicitor they might want to act in October 2020 but didn't receive details of any solicitor from Ms O and Mr S with this information until May 2021. Liverpool Victoria says it did not cause all the delays in the case and even if it did, the compensation proposed is not reasonable.

As the Investigator was unable to resolve the complaint, it has been passed to me.

In the meantime, I understand Liverpool Victoria has agreed to pay for counsel's opinion on the potential harassment claim. The neighbour also offered a settlement, which Ms O and Mr S say is not acceptable, as it would still mean their right of way would be blocked. The solicitors advised the claim still has reasonable prospects.

Ms O and Mr S have also made a complaint about the handling of a previous claim, unrelated to this one, and about issues with renewal documentation. This decision only addresses the handling of the claim relating to the neighbour dispute.

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.

Initial refusal of claim

It is not in dispute that there was a delay in the claim being progressed in September 2019, as Liverpool Victoria had not provided the panel solicitors, that operate the helpline and deal with the initial claim process, the correct information about how long Ms O and Mr S had held their policy. Liverpool Victoria has offered to reimburse the legal costs they incurred in getting urgent legal advice and says there was no other detriment caused by this. I don't agree. This happened at a stage when Ms O and Mr S were clearly anxious to get urgent advice and were incorrectly refused cover under their policy. They had to then find their own solicitors to provide advice and had to fund that outlay. In its final response letter around a year later, Liverpool Victoria offered to reimburse those costs but I understand has not done so yet.

It was not until December 2019, around three months later that the panel solicitors were appointed to progress the claim. This would undoubtedly have caused some stress and inconvenience to Ms O and Mr S and was entirely avoidable in my opinion.

Ms O and Mr S are also adamant this affected their chances of getting an injunction against the neighbour and resolving the dispute sooner. There is no convincing evidence to support this but I accept that action could have been taken sooner, if the solicitors had been instructed sooner. I will address compensation for this later in this decision.

Handling of the claim from December 2019 to July 2020

Ms O and Mr S's policy, like all other legal expenses insurance policies, requires any legal case to have a reasonable chance of succeeding in court in order to be covered under the policy. We would therefore consider this to be a 51% or more chance of the legal case succeeding, throughout the life of the case. This is not unfair or unreasonable.

It is normally for a claimant to establish they have a valid claim under an insurance policy, so this would mean Ms O and Mr S would have to establish the likelihood of success of their legal case. However, ordinarily legal expenses insurers will ask a solicitor to advise at its own costs. Ms O and Mr S provided an opinion from their own solicitor but Liverpool Victoria's panel solicitors also assessed the case.

The policy also, again like most legal expenses insurance policies of this kind, provides that once proceedings are required the policyholder may choose their own appointed representative. This means that until proceedings are required, Liverpool Victoria has the right to appoint one of its panel firms. Again, this is not inherently unfair.

The claim was then passed to panel solicitors in December 2019. Much of Ms O and Mr S's complaint is about the way this firm dealt with the claim, including not following up the letter sent to the neighbour and not obtaining a surveyor's report among other things.

We do not assess the merits of the legal claim, or the conduct of the legal case, that is not within our expertise. Our remit is to assess complaints about regulated activities, such as carrying out an insurance contract. Therefore, in a case such as this, we can only assess whether the insurance claim has been dealt with fairly.

We also do not hold legal expenses insurers responsible for the solicitors they may appoint when handling a claim. The solicitors are not agents of Liverpool Victoria and are not sub-contractors as such, even if they are appointed by them. It is not therefore vicariously liable for any acts or omissions on their part. They are independent professionals and the insurer has no right to interfere or dictate how they conduct the actual legal case. And any complaint about the service provided by the legal professionals involved in this case should be directed to the relevant body - the Legal Ombudsman.

Liverpool Victoria does still have some responsibility however, including to ensure as far as possible that the solicitors it appoints to act on behalf of policyholders are suitable and appropriate for the instructions in question. I haven't seen any independent evidence that either of the panel solicitors firms were not suitably qualified to deal with this matter or that Liverpool Victoria should have been aware of any deficiencies in their service.

Liverpool Victoria also has a duty to consider any general complaint made about any solicitors acting under the policy and treat its policyholders fairly, if there are any issue that is within its power to resolve.

Given this, I am not able to look into most of the issues, Ms O and Mr S have raised, such as the refusal of face-to-face meetings, not making a site visit, and not seeking an injunction against the neighbours in 2020. Liverpool Victoria is also not responsible for the time taken by the first panel solicitors to deal with any legal issues between December 2019 and May 2020.

Ms O and Mrs S made Liverpool Victoria aware they were unhappy with the first panel solicitors in May 2020. However, they said they did not want it to be treated as a formal complaint until they had set out their complaint fully in writing. This was done in mid-July 2019. I do not think Liverpool Victoria could have done much more during this period than it did. Once it received this letter, Liverpool Victoria asked for the panel solicitor's response to the complaint. The panel solicitors confirmed prospects and that it was approaching the stage where proceedings would be required.

As they were unhappy with the panel solicitors, Liverpool Victoria therefore agreed to Ms O and Mr S's own solicitors being appointed to progress the claim at the end of July 2020.

Having considered everything, I do not consider that Liverpool Victoria could have done much more during this period.

Fraud allegation

I understand Liverpool Victoria offered to pay Ms O and Mr S's solicitors £150 per hour plus VAT to act under the policy. They asked for £192 per hour plus VAT. Liverpool Victoria agreed this rate around a week later but the solicitors still refused to act as they didn't accept other terms, such as waiting until the end of the case to be paid. Ms O and Mr S say that the terms offered to their solicitor were restrictive and unfair. And that offering the lower hourly rate initially was tantamount to fraud.

The policy does not set out the hourly rate that will be paid but provides for reasonable legal costs. Liverpool Victoria offered a lower rate initially and within a reasonable time agreed to a higher rate that was apparently acceptable to the solicitors. Offering a lower rate initially does not amount to fraud.

The solicitors were still unhappy with the other terms. However, because a legal expenses insurer's liability is restricted to indemnifying unrecovered costs, we have long taken the approach that it is within insurer's rights to wait until the conclusion of a case before paying a claim. The insurer may agree, at its discretion, to make interim payments, but we would not usually require it to do so. I understand Liverpool Victoria did offer to make interim payments to the solicitors here but they were still not willing to agree the terms.

Overall, I do not think Liverpool Victoria acted unreasonable in regards to the appointment of these solicitors. And as they would not agree to the terms required by the policy, it was agreed that another panel solicitor would act. I think this was reasonable.

Handling of claim from August 2020 to May 2021

The second panel solicitors were appointed on 19 August 2020. I consider this to be within a reasonable time. Ms O and Mr S are very unhappy that they assessed the prospects of the claim again and say Liverpool Victoria should have made clear to them the urgency of the case and instructed them simply to proceed with the legal claim.

As stated above, solicitors are independent professionals and so will always carry out their own assessment of a case. I do not think it reasonable to expect solicitors to simply issue proceedings or carry out legal work without doing their own assessment of the case and how it should be conducted. And, again as stated above, it is a policy requirement that any claim has reasonable prospects throughout its life and as this can change depending on the evidence that comes out as the case progresses, it is reasonable for this to also be reassessed at stages throughout a case.

The solicitors asked for more information from Ms O and Mr S, including I understand that they obtain a surveyor's report. It was for the solicitors to determine what evidence they thought was needed.

I do not think that Liverpool Victoria acted unfairly or unreasonably in the way it dealt with the transfer to the second panel solicitors.

Should survey have been paid for by Liverpool Victoria?

I can understand why Ms O and Mr S were unhappy at being asked to fund the cost of and obtain the surveyor's report themselves when the claim had previously been accepted as covered by the policy. It had been accepted that their property rights were being infringed. A surveyor's report would be necessary to determine the details of that (and I understand it was agreed later to obtain one jointly) but given they'd established a prima facie case, I do think this was evidence required as part of the case and therefore should have been covered under the policy.

It seems the legal case didn't progress much between September 2020 and May 2021. Liverpool Victoria did offer to appoint Ms O and Mr S's own choice of solicitor in October 2020 and they were communicating about that but there was the issue of the surveyor's report and they were unhappy with the panel solicitors. I think Liverpool Victoria could have done more to resolve this issue during that time period, especially regarding the surveyor's report.

Handling of claim from May 2021 onwards

It was then agreed that Ms O and Mr S's own solicitors would be appointed. I understand a barrister has also been involved. Their barrister confirmed reasonable prospects of success and this was sent to Liverpool Victoria in August 2021. The barrister suggested a site visit which was done at the beginning of September 2021 and cover for proceedings was confirmed later that month.

Ms O and Mr S says this left just a few months before part of their claim would be out of time (*i.e.* the garage trespass). The letter of claim expired at end October 2021 but the barrister was drafting the particulars in December 2021, with just four weeks to go before the expiry date of their claim.

There was a recent query about cover for an added nuisance claim and what the barrister could include in the particulars of claim to be submitted to the court. Liverpool Victoria confirmed that if counsel supports that the harassment claim would help the nuisance claim

and had reasonable prospects, it would be covered. I can see it also agreed to fund counsel's opinion on this. Proceedings were issued and the case has progressed.

Ms O and Mr S say they were caused additional stress and worry about possibly being too late to bring their claim and this would not have happened if it were not for the delays by Liverpool Victoria earlier in the claim process. I will consider this

However, I can see no evidence of any delays by Liverpool Victoria during this period and think it acted reasonably in confirming cover for the harassment claim, if it would assist the main nuisance claim.

Complaint handling and GDPR

Ms O and Mr S are unhappy that Liverpool Victoria took too long to respond to their complaint. A respondent business has up to eight weeks to respond to a complaint but if it fails to do so within that time, the consumer can ask us to look into the complaint without the business's response. Sometimes it will be possible to issue a final response sooner but Liverpool Victoria was allowed to take up to eight weeks to do so. Indeed, it doesn't have to provide a response at all – although it is obviously good practice for it to do so.

While I appreciate Ms O and Mr S were anxious to be able to progress their legal claim, I do not consider that any award is appropriate for this.

Ms O and Mr S also say that there was a breach of GDPR by the helpline solicitor who completed an insurance claim form inaccurately. At the relevant time, the panel solicitors were instructed to act on Liverpool Victoria's behalf, so I consider that it was reasonable for the solicitors to process the information and complete the required forms. They are required to process that data accurately and Ms O and Mr S say that because mistakes were made about the dates of their cover, this was a breach of the regulations. While all businesses are required to take reasonable care when dealing with a customer's data, sometimes things go wrong and mistakes are made. I will address the impact that mistake had on Ms O and Mr S below. I do not consider that any additional award is appropriate to penalize the business for a data breach, as we do not regulate such matters.

Compensation

Ms O and Mr S are adamant that all their suffering in the last few years is a result of Liverpool Victoria's handling of their legal expenses claims. They say that if a robust letter had been sent to the neighbour, with the support of a full surveyor's report, with court proceedings to swiftly follow if the neighbour did not fully comply then their neighbour have agreed to remove the obstruction during mediation, if not before, and the matter would have been resolved a long time ago.

This has clearly been an upsetting and stressful saga for Ms O and Mr S. Any legal dispute, especially with a neighbour, is an extremely difficult experience. They have said Ms O's health in particular has suffered as a result. There is no medical evidence to support this, as far as I am aware, but I have no doubt it would have been extremely frustrating and stressful that this took so long to resolve. Having said that, Ms O and Mr S's expectations about compensation are somewhat unrealistic (even if Liverpool Victoria was responsible for the entire period it took from September 2019 to now, which for the reasons given above I don't think it was) even taking account of Ms O's health conditions.

There is no convincing evidence to support that the dispute would have been resolved by now, if it were not for the delays on Liverpool Victoria's part. The lawyers took the action they considered appropriate at each stage and Liverpool Victoria is not responsible for their

handling of the case. There was the initial delay and delay in late 2020 to mid 2021. I have not worked out exactly how long is attributable to Liverpool Victoria, as it is impossible to be so accurate but I agree with the Investigator that it would have been around eight months additional delay.

I also note that this dispute had already been going on for two or three years before this claim was made and there are no certainties about how the neighbour would have responded at any stage. I note the neighbour is contesting the claim and alleges that Ms O and Mr S have trespassed on their land. So I am not convinced that the legal case would have been resolved in 2019/2020, as Ms O and Mr S suggest, if it had not been for the delays Liverpool Victoria is responsible for.

Having considered all the evidence, I agree with the Investigator that the total sum of £1,500 compensation is warranted. This is to reflect the delays that were attributable to Liverpool Victoria and the consequences that flowed from that (including the stress of getting their own legal advice, not agreeing to pay for the surveyor's report, various delays and concerns about being able to proceed with all their claims) especially in the context of Ms O's health conditions.

Loss of earnings

To be able to make an award for loss of earnings, I would have to be satisfied that Ms O has incurred loss of earnings solely and directly as a result of Liverpool Victoria's wrongdoing.

Ms O was signed off work in September 2019. The reasons for her leaving work then were unrelated to this dispute. However, Ms O and Mr S say that she would have been able to return to work had it not been for stress caused to her by this ongoing claim, which should have been resolved long ago. Ms O and Mr S have provided a lot of information about Ms O's condition and I have no doubt whatsoever that this has been an incredibly difficult period of time for her.

Ms O and Mr S have described their neighbour as being "*aggressive and abusive*" and they've said they've had problems with them since 2016. They told us that they were aware this might lead to a legal property dispute in 2017 but Ms O was not strong enough to deal with it then, so they notified Liverpool Victoria but left it in abeyance until 2019, by which time the neighbour had got worse and they had occasion to call the police in August 2019.

So I can see that the ongoing dispute might have affected Ms O's ability to resume working. However, as I am not satisfied it has been established that the claim would definitely have been resolved much sooner, I do not consider that the fact she is still not back in work is entirely due to anything done wrong by Liverpool Victoria.

I am not satisfied that Liverpool Victoria's mishandling of the claim is the sole reason Ms O has not been working since September 2019 and so am also not convinced that I can reasonably require Liverpool Victoria to pay any amount for loss of earnings.

My final decision

I uphold this complaint and require Liverpool Victoria Insurance Company Limited to do the following:

1. reimburse Ms O and Mr S for legal costs incurred in 2019, (on production of suitable evidence of them), together with interest at 8% simple per annum, from the date they paid the costs to the date of reimbursement; and

2. pay Ms O and Mr S £1,500 compensation for the distress and inconvenience caused by its handling of the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms O and Mr S to accept or reject my decision before 8 August 2022.

Harriet McCarthy
Ombudsman