

## **The complaint**

Mr W complains about Lloyds Bank General Insurance's decision to decline his claim for an escape of water under his buildings insurance policy.

## **What happened**

Mr W noticed a damp section of carpet in his living room. He says he pulled up the carpet and found it was soaked through. He says he also noticed damp marks appearing on the walls and contacted Lloyds to make a claim.

Mr W says he was asked to pay a £350 policy excess charge upfront for Lloyds to arrange the source of the leak to be investigated. He asked if he could use a local plumber instead. Lloyds agreed. Mr W's plumber found the waste pipe under the bath had failed and was the source of the dampness. He says Lloyds then sent its own contractor anyway, and it concluded the source of the dampness was from groundwater, following testing for nitrates.

Mr W states he is a civil engineer and doesn't think nitrate testing is reliable to identify the source of the problem. He thinks the problem will have taken longer to manifest itself if rising dampness was the source.

Lloyds sent a surveyor to carry out a further inspection. He didn't think the waste pipe in the bathroom was the cause of the dampness. He recommended that a damp specialist should investigate. Lloyds declined the claim as the waste pipe wasn't thought to be the cause and no other insured cause had been confirmed. Mr W complained to Lloyds and it suggested he should arrange for a damp specialist to inspect if he wanted to dispute its decline decision. It says it would reimburse the costs Mr W incurred, if he showed the issue wasn't related to the damp issue.

Mr W didn't think this was fair and referred his complaint to our service. Our investigator didn't uphold his complaint. He thought it was reasonable for Lloyds to rely on the opinion of the experts it instructed. He thought Lloyds explanation that the location of the dampness, in relation to the bathroom, and the damp testing results were persuasive in showing the bathroom waste pipe wasn't the cause of the problem.

Our investigator didn't think Mr W had shown that he had suffered an insured loss covered by his policy terms.

Mr W didn't agree with this outcome and advised that he was undertaking further investigations to excavate the concrete floor and some walls to further identify the source of the dampness. He asked that an ombudsman review his complaint and to consider his comments on the further investigations and that of a plumber he employed.

The complaint 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.

Having done so I have decided not to uphold Mr W's complaint. I'm sorry to disappoint him but I will explain why I think my decision is fair.

It's for the policy holder to demonstrate to their insurer that they have suffered an insured loss. If they can do this then, generally speaking, the insurer should pay the cost of the claim in line with the policy terms and conditions, unless the insurer can reasonably rely on a policy exclusion that shows it needn't.

When considering Mr W's complaint, I have relied, in part, on the expert opinions provided by both parties.

Mr W says that the plumber he employed found the cause of the damp was a failed waste pipe from the bath in the upstairs bathroom. I have copied the relevant excerpt from the plumbers report below:

*"The carpet had been pulled back and I could see the line of the reinstated concrete surround of the pipe. There was some dampness here, but looking at the extent of the damp across the living room floor and rising up the walls in several locations even out to the front door I felt this was an unlikely source. On inspection of the heating system, this proved to be correct as there was 1 bar of pressure still in the system, and the occupier said that this had been the case since the heating had been off for most of the summer.*

*I looked at other potential water sources and discovered the waste pipe fitting to the upstairs bath had completely failed. When putting the tap on the water flowed freely out of outlet fitting beneath the bath directly onto the floor boards and then freely escaped. There was no sign of dampness in the kitchen ceiling directly under the bath, nor coming down the walls. There is a chimney void next to the bath that is not accessible, but there have been signs of damp on the tiled kitchen floor downstairs (becoming slippery and darkening of the grout).*

*The dampness that is appearing across the living room and downstairs floors, and rising up the downstairs walls must be caused by this leak because of the volume of water escaping and finding a path downstairs and under the laminated flooring and carpets etc."*

I have read the leak detection survey Lloyds arranged after Mr W's plumber had completed his inspection. The pertinent excerpts from this report are copied below:

*"Our engineer has carried out a full leak detection survey to ascertain the cause of water damage to the living room floor and the hallway walls. Our equipment indicated all mains pipework to be sound at the time of our survey. Further testing indicated the cause of the water damage to the walls downstairs is due to a rising damp issue ongoing within the property. Our equipment has found the bath waste pipe to still be leaking, although our equipment has suggested this is not the cause of the damage to the living room and hallway flooring and walls.*

*We suggest the bath waste trap is replaced. The chimney will also need inspecting to find the cause of moisture in the loft area. It would be prudent for a rising damp specialist to inspect the property in order to rectify the damp issues."*

Mr W didn't accept Lloyd's findings. Following discussion, a further inspection was arranged around three months later. The resulting surveyor's report provided the following conclusions:

*"Diagnosing why such damp issues are present, is commonly a process of elimination. The*

*leak from the first-floor bathroom is discounted as there would no doubt be damage to the ceiling below the area in the kitchen. Utilising a Flir 6 Thermal Imaging camera has revealed buried heating pipes within the floor next to the doorway to the living room and within the wall. These would be the first areas to be investigated further.*

*Secondly high readings are evident on the party wall and given the property is semi-detached further investigation should also be carried out next door. Rising damp cannot be ruled out but also cannot be confirmed from a visual inspection alone. However, the issue is not widespread throughout the property and localised to the central area. Ideally, we would recommend that a damp expert is engaged to investigate the issues further by process of elimination."*

I have seen a diagram that shows the layout of Mr W's home. The upstairs bathroom is toward the rear of the house. The area in the living room where Mr W found the damp section of flooring is at the front of the house. I understand Mr W strongly believes the bath waste pipe is the cause of the leak. This is also his plumber's view as detailed in the report he provided to Lloyds.

I have thought about the plumber's findings along with that of the leak detection specialist and the surveyor who inspected.

The reports Lloyds's relied upon agree that although there was a leak from the upstairs bathroom, this wasn't the cause of the dampness Mr W reported. Both reports are detailed, including photos of the areas and the testing that was carried out. This included the use of a damp meter, thermal imaging and salts testing. I note the surveyor that carried out the second inspection is also registered with the Royal Institution of Chartered Surveyors (RICS).

I have given thought to Mr W's plumber's comments but based on the information provided I'm more persuaded by Lloyds's inspection reports. Particularly that the location of the bathroom leak, in relation to the dampness downstairs, suggests it's unlikely to be the cause. Lloyds's suggestion that the cause could be the result of rising dampness, a concealed pipe or a source from the neighbouring property, was I think more probable based on this information.

So, having considered the expert opinion provided, I'm more persuaded by Lloyds view that the cause of the dampness wasn't from the bathroom leak but from another cause.

Mr W says he wasn't prepared to pay for an expert report of his own to counter the opinion obtained by Lloyds. But he has since supplied a letter dated in December 2021 from a plumber he employed to help him identify and resolve his damp problem. The letter says:

*"I've carried out inspection works for Mr [W] over many months. I explained from the outset that water is very unpredictable, and finding the source of any sort of leak is very difficult, hence my taking a reasoned approach over many months. I fixed the initial problem that was clearly the main source of water damage to the house, with probably many bath loads leaking undetected for some time. It was clear that this water has deposited between the downstairs ceiling and the upstairs floor, eventually working its way downstairs soaking the laminate flooring and the living room carpet.*

*The second issue was only detected after many months, that of ivy growing into the downstairs walls, and finding its way into the building. I have also fixed that problem too.*

*Following extensive searching and examination of where water could have got into the house I also found some leakage to the c/h system, but it looks as though a self sealing*

*product has been added to the system by the previous householder to seal the system. I have recommended that the affected parts are replaced eventually, as this is not an issue at the minute*

*Rarely have I struggled to find a leak, but having done this sort of work for about 30 years now and again cases such as this do happen, I am just please that I have found both sources, the bath water being the primary cause, and most recently the ivy growth that have led to a solution for Mr [W]. The house is bone dry now, and has been for over a month now, even after really heavy rainfall."*

In a subsequent email to our service Mr W says he thinks the primary cause of the damp is still the bathroom leak, but the secondary cause is surface water entering the brickwork. He says he has supplied photos that show water marks between the downstairs ceiling and the upstairs floorboards, water marks on the kitchen wall and on the beam across the kitchen/dining area. He says this can't be rising damp.

Mr W says he has lifted the floorboards in the bathroom and broken through an outside wall to "see if the pipe was damaged in the cavity", with reference to the waste pipe. He says it wasn't damaged. He says a mains water pressure test was carried out and no leaks were detected. When moving some bricks externally he says this is when the ivy growth was found. He says roots had penetrated the mortar bedding at the front of his house and had allowed rainwater to ingress causing damp issues internally.

Mr W concludes that there is no evidence of rising damp and says the terms of his policy should support his original claim.

We asked Lloyds to comment on the plumber's letter, Mr W's comments and the additional photos he had supplied. It responded to say it had asked the surveying company it used to review this information. It says the head of surveying doesn't think Mr W has presented new information to confirm his claim. The surveyor who originally inspected his property also provided a response. He says:

*"In relation to the attachments sent, I do not feel that this "evidence" would change our minds at all. Firstly, the leak to the bath as per my original report the bathroom and alleged bath is directly above the kitchen area no water damage is evident to the plasterboard ceiling, any leak from this bath would first manifest itself on this ceiling and not a number of metres away at the base of walls."*

And in relation to the ivy growth photos:

*"Again these are remote form [sic] the areas of concern as per the plan above form [sic] my original report. In any case Ivy growth would be a maintenance issue and not an insured peril."*

I have considered the photos Mr W has provided in detail, along with his further comments, that of the plumber he employed and the response we received from Lloyd's surveyors. I'm sorry Mr W has experienced an ongoing issue with dampness in his home. And I'm glad that he has now been able to remedy this issue. But I'm not persuaded that he's shown Lloyds was wrong to conclude the bathroom leak wasn't the cause of the damage in his claim.

I also don't think he's shown that Lloyds was wrong to rely on the expert opinion that suggested groundwater was indicated as the source of the dampness. Given this was highlighted by the presence of nitrates in the salts testing, I don't think this was unreasonable. I understand Mr W has strong views on this form of testing. But this is an established test used by the industry. In this case an expert in this field has said this

indicates groundwater as the source of the dampness.

The surveyor and leak detection specialist concluded there was another source of the dampness, which as Lloyds highlights in its most recent response, is what Mr W and his plumber indicate they had found.

I have read Mr W's policy terms to understand what cover is provided here. The terms under "*General Exceptions*" say:

*"Gradually operating cause. Any loss, damage or liability arising from wear and tear or damage that happens gradually over time."*

I think the ivy growth can reasonably be considered as something that happens gradually over time. Based on the exclusion terms this means cover isn't provided for this cause.

Finally, Mr W wasn't happy that he was asked to pay the policy excess of £350 when he made his claim. However, his policy schedule confirms this is the amount he must pay toward each and every incident of loss or damage. So, I don't think Lloyds behaved unfairly in relation to this point.

In considering all of this, I'm not persuaded that Lloyds treated Mr W unfairly when relying on its expert's opinions, and its policy terms to decline his claim. So, I can't reasonably ask it to do anymore.

### **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 Mr W to accept or reject my decision before 17 June 2022.

Mike Waldron  
**Ombudsman**