

## The complaint

Mr K complains that Lloyds Bank General Insurance Limited (Lloyds) haven't settled his claim fairly under his buildings and contents policy. He wants the claim settled and compensation for the inconvenience.

## What happened

Mr K noticed a leak from his en-suite shower in July 2020. Due to Covid Mr K says he couldn't get a plumber to check the issue until October 2020, so he stopped using the shower. The plumber identified leaking pipes in the wall. Damage had been caused to the en-suite, bathroom, bedroom wardrobe and kitchen ceiling. Mr K contacted Lloyds on 26 October 2020. Lloyds appointed an agent (I'll call D) to handle the claim. D sent a loss adjuster to assess the claim in November 2020.

Mr K wanted to use his own contractor and sent D an estimate. D suggested additional works recommended by the loss adjuster and asked for a revised estimate. Mr K provided this, which D approved. Mr K says his contractors began strip out works in the bathrooms around 7 December 2020. As this would mean Mr K's home would be without bathrooms, he says D discussed the following options with him:

- arrange alternative accommodation (AA) in either a hotel or a rented property. Or,
- remain at home with a mobile bathroom unit (a POD) set up in his garden, with the payment of a disturbance allowance (DA) of £10 per person per day - £50 per day for Mr K's family.

D sent an email confirming that DA would be paid from the date the bathroom was stripped out until it was re-instated. Mr K decided on the POD. But there was a delay in obtaining it so AA was provided from 21 December 2020 to 6 January 2021.

Once the POD was in place, Mr K says he chased D over both the DA and the settlement of his claim, as he couldn't continue repairs without payment. He says his energy bills increased substantially to power the POD and in heating his home as windows had to be left open to run cables to it. He says there was an offensive smell from the drains for many months whilst he chased D for updates. With no progress Mr K says he appointed a loss assessor to act for him in February 2021. This incurred fees of £1,300, but he says little progress was made.

Mr K says he decided to remain at home because of the offer of DA. Without it he'd have opted for AA. He complained to Lloyds in May 2021 about the failure to pay the DA and delays in progressing the claim. Mr K said this prompted Lloyds to send its own contractor to prepare an estimate. After this a settlement figure for the repairs was agreed with the loss adjuster in May 2021. Lloyds then issued a final response in June 2021.

Lloyds said it was upholding the complaint. It agreed that D had told Mr K that DA would be paid if he opted for the POD. It said that this had been referred to the underwriters in January 2021. However due to delays the underwriters only confirmed that DA wasn't

*“claimable”* on 17 April 2021. It said further information had been requested from the loss adjuster. Lloyds apologised, saying:

*“it had identified service failings in that you were misadvised ... and I can fully appreciate how frustrating this must have been.”*

In respect of the claim it said it had *“escalated matters to our LA to ask that they contact your underwriters with the further information requested at the earliest opportunity”*

With no update Mrs K called Lloyds on 14 June 2021. She said the POD was *“eating electricity”* and they had been promised DA would be paid. The call handler agreed that DA should be paid because the family *“was living in a building site”*. And that they would check the DA details and chase the loss adjuster for an update on the payment of the claim.

Mrs K called Lloyds on 28 June, 7 and 12 July 2021, chasing payment of the claim and for updates on the DA. She stressed they were in danger of losing their builders due to the delays. She called again on 19 July 2021 and said they had now lost another builder. Lloyds made the settlement on 26 July 2021 (although the claim wasn't fully settled until later).

By then Mr K had referred his complaint to our service. He said he accepted there was going to be *“disruption”* due to the claim *“which is what the disturbance allowance was to compensate for”*. Mr K also complained about the electricity costs incurred by the POD. Our investigator asked Lloyds to look into this additional point before he considered the complaint.

Lloyds issued a final response in January 2022. It said DA wasn't payable and Mr K had been misinformed. It agreed to consider his energy costs and travelling expenses in taking the children to their grandparents to shower. It agreed there had been a *“significant”* delay in processing the claim. Lloyds apologised and offered £800 compensation as a gesture of goodwill. Mr K wasn't happy and asked our investigator to consider his complaint.

Our investigator looked into it, but he didn't uphold the complaint.

He said Lloyds agreement to consider Mr K's energy and travel costs was fair. He agreed that the offer of DA had influenced Mr K's decision about the POD. But whilst Lloyds had made an error in offering DA, it didn't follow that Lloyds should be held to the error. He said that a large insurance claim would always be stressful and cause inconvenience, but the £800 compensation offered fairly reflected the additional upset caused by Lloyds' failings.

Mr K disagreed. He said Lloyds only said DA wouldn't be paid after it had finally settled his claim in August 2021 after months of delay. He said his family had been living in *“a freezing building site and going outside to use a shower and a toilet”* for over a year. He said his kitchen had also been out of use for a period and DA should be paid for this.

He said our investigator's conclusion would allow others to be:

*“stitched up in the same way. “Please take a Portaloo and we will give you £1500 a month” except when the process comes to an end it will be “Oh sorry, ... That was a mistake. Never mind.” ”*

As Mr K doesn't agree it has come to me to decide.

### **My provisional decision**

I issued my provision decision on 17 May 2022. I explained the reasons why I was planning to uphold the complaint in part. I said:

*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'm planning to uphold the complaint in part. But to be clear to Mr K I'm not considering telling Lloyds to pay DA for the whole period.*

*All insurance claims are going to be inconvenient, particularly if significant repairs are required. But I think this claim was poorly handled with excessive delays and confusion over many months with it taking more than a year for repairs to be completed. These delays continued after Lloyds' first final response to Mr K's complaint, where it promised to escalate matters.*

*Unfortunately, because of what DA actually is, rather than what D told Mr K it was, it isn't reasonable for me to tell Lloyds to pay it now. I know this will greatly disappoint Mr K and I'll explain why I think this below.*

*But I think Mr K and his family have suffered more inconvenience than they should have and incurred unnecessary expenses which don't appear to have been re-imbursed. I've also considered whether the provision of the POD was a reasonable solution for Mr K's family during this much delayed claim. At this stage I don't think it was.*

*There's no dispute that DA was offered and accepted, so I won't set out the chain of conversations and correspondence over this. Mr K says Lloyds didn't confirm DA wouldn't be paid until after the rest of the claim was paid. I think Lloyds communication was poor. Its final response does say, in a roundabout fashion, that DA wasn't "claimable". But then suggests it will be reviewed. That was in June 2021 and I think this issue should have been resolved in January 2021 at the latest.*

*Mr K has asked why is it that the underwriter gets to make the decisions on what gets paid on the claim? The underwriter provides the insurance, so it receives the premium and pays any claims. It may appoint agents to sell the policy or handle claims like it appointed D here. However, our service thinks it's fair that the underwriter is also responsible for the actions of its agents. In this complaint it's clear that D didn't understand Lloyds approach to DA.*

### **What is DA**

*Mr K has requested a copy of Lloyds terms and conditions (T&C's) relating to DA. However, the policy T&C's don't refer to DA and this isn't uncommon in the industry.*

*The payment of DA is a practice often used by insurers, at their discretion, rather than a specific policy benefit set out in the T&C's. DA can be paid during a claim when someone's home lacks facilities, where they would be eligible for alternative accommodation (AA), but choose to remain at home instead.*

*However, DA it isn't a compensation payment for any inconvenience, or as Mr K put it "disruption" caused by remaining in the home. Instead it is to cover extra expenses they might incur as a consequence of the loss of facilities, like not being able to cook or do laundry.*

*The purpose of Mr K's policy is to put him in the position he was in before the incident claimed for occurred. This means it's fair that any extra expenses incurred because of the claim are re-imbursed. DA is a way of doing this without the need for either the insured or the insurer to obtain and check receipts and so on for these additional expenses.*

*And, much as I understand and sympathise with Mr K's comments about the difficulties of living in a "building site", DA isn't compensation for this. Although I agree that D kept telling him that it was.*

### **Should DA be paid for the whole period**

Lloyds says there was no loss of facilities not covered by AA once the POD was in place and Mr K was misadvised that DA would be paid. Unfortunately, it continued to state this after the final response which said his "comments had been taken onboard and fed back to the relevant Management."

Mr K says if he'd opted for AA this would have been much more expensive, prompting Lloyds to progress the claim more efficiently. Lloyds says the POD cost more than providing AA in rented accommodation, so the relative cost of the options wasn't a factor.

Lloyds has now agreed to consider Mr K's additional energy costs and other expenses. So, it is, belatedly, seeking to put him back in the position he was in before the incident occurred, as the policy should. This is a reasonable alternative to what the payment of DA is meant to provide for, although I appreciate it won't feel like that to Mr K and his family. However, it wouldn't be fair for me to tell Lloyds to pay DA for the whole period as he is now being put back into the position he was in before the incident.

### **Was the POD a reasonable solution**

I agree that Mr K's decision to opt for the POD rather than AA was influenced by the offer of DA payment. Doubtless, in the reasonable expectation that the claim would be promptly settled, repairs completed and any inconvenience due to the POD suffered for a few weeks rather than many months.

So, I've thought about whether the POD was a reasonable solution for the lack of a usable bathroom. Had Mr K needed to remain at home, perhaps to care for pets, it might have been an acceptable alternative to AA, but that wasn't the case here.

For a family of five I don't think only having a mobile bathroom outside the house can be regarded as anything other than a short-term solution. Particularly in winter if windows have to be left open to supply it. So, I don't think the POD suited Mr K's family life. He complained about problems with the POD at an early stage, when the loss adjuster advised the DA decision needed to be referred to the underwriters in January 2021:

*"In simple terms the hotel option would have been better for my family even though the POD option appeared the cheaper and quicker method all round."*

I think due to the unsuitability of the POD the inconvenience caused by the delays in settling the claim was greatly increased. Had the situation with DA been clarified sooner as it should have been, I think Mr K might have insisted on a more suitable solution for his family than continuing with the POD as the claim dragged on.

### **Period before AA was provided**

Mr K says he was without bathroom facilities from around 7 December 2020, when strip out works began. The delay in installing the POD resulted in AA in a hotel being provided from 21 December 2020. I think it's likely that Mr K incurred expenses before this. I wouldn't expect Mr K to have retained receipts for any additional expenses from then, as he wasn't asked to. So, I think it's fair that DA should be paid between the 7-21 December 2020 at the rate of £35 a day for the family.

Mr K says his kitchen was unusable from around 4 October to 20 December 2020, with work beginning with the removal of the lights. I asked Lloyds about this. It said the kitchen required relatively minor works, and there was "no lack of facilities".

Mr K didn't contact Lloyds until 26 October 2020. The loss adjuster attended on 11 November 2020, but its report doesn't mention whether the lights had been removed. It says the ceiling required plastering, painting, spotlights and drying, with a reserve of £4,000 for this work. That suggests fairly substantial repairs, so I think the kitchen would have been unusable for a period, particularly if it had no lighting.

*I don't think it is reasonable to expect DA to be paid for the period before Mr K claimed or before work was authorised by Lloyds' agent. On that basis much of the period where the kitchen may have been out of use, overlaps that of the bathrooms. However, if Mr K has further evidence that his kitchen was out of use before then, perhaps that lighting had been removed by an electrician on safety grounds, I'll consider this point further.*

### **The handling of the claim**

*I think this was a straightforward claim which should have been settled promptly. Had it, Mr K might have had full use of his home in early 2021. The work was expected to take around three months having begun in December 2020.*

*D initially seemed responsive. But once the POD was installed the claim doesn't appear to have been properly progressed for many months despite Mr K pushing for updates, retaining a loss assessor, and finally complaining. This seemed to result in queries about why the claim hadn't been brought before October 2020, if the damage was noted earlier. Despite this already having been comprehensively addressed in the loss adjuster's report of 11 November 2020.*

*Despite being told their claim would be escalated in the final response, through June and July 2021 an increasingly upset Mrs K had to chase D for updates and for the settlement so repairs could be completed. She stressed that they were in danger of losing their builders (which happened twice) due to the delays.*

*But it wasn't until the end of July 2021 before Lloyds issued part of the settlement to enable the bathrooms to be reinstated, although this work wasn't completed until December 2021. And, it didn't agree to consider Mr K's additional utility costs or offer compensation for the delays and upset caused until January 2022, after our service became involved.*

*Mr K retained a loss assessor to act for him in February 2021. I don't think it should have been necessary for him to do this and I think it's fair that his expenses here should be re-imbursed if they haven't been already. The T&C's provide for the payment of various professional costs in connection with a claim.*

### **Putting things right**

*At this stage I don't think Mr K has been treated fairly. There were unnecessary delays over many months. Lloyds says the £800 compensation offered "reflects the inconvenience caused by the delays, poor communication and loss of expectation that the insured has experienced".*

*But I don't think it compensates for the trouble and upset caused by the inadequate POD arrangement. Inconvenient in itself, it resulted in a cold house particularly through the winter months. I think the misinformation about the DA caused further unnecessary trouble and upset over many months. I think the inconvenience suffered by a family of five here was significant. So, I think a further £500 should be paid in compensation to give £1,300 in total.*

*I think DA should be paid at the rate of £35 a day between 7-21 December 2020 when Mr K's family were without bathroom facilities.*

*I don't think Mr K should have needed to appoint a loss assessor. So, I think it's fair that his expenses for this be re-imbursed with interest at 8% per year simple from the date he paid them.*

*I asked Mr K and Lloyds to let me have any further evidence or comments they wanted me to consider.*

### **Response to provisional decision**

Mr K said he understood the DA rate should be £50 per day. He said that his kitchen had been unusable between 4 October – 21 December 2021 rather than 2020, meaning it didn't overlap the provision of any AA and occurred after the claim had been notified to Lloyds.

Lloyds said it agreed that a further £500 in compensation should be paid. It also agreed that DA should be paid between 7-21 December 2020. But it disagreed that it was fair that it should pay Mr K's loss assessor fee. It said it was Mr K's decision to use the loss assessor, who hadn't *"added any value to the claim"* and it wouldn't normally pay such fees. Lloyds queried the extent and duration of repairs in the kitchen and asked if this could be referred back to the claims team for consideration.

### **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've decided to uphold the complaint in part.

I think this claim was handled poorly with avoidable delays and misinformation causing Mr K and his family more inconvenience than there should have been as a result of the problem with their en-suite. Lloyds has accepted and apologised for this, but I think it should pay additional compensation of £500 to give £1,300 in total for the trouble and upset caused.

I think Lloyds should pay DA between 7-21 December 2020, as it has now agreed. Mr K queried the daily rate of this having been told it was £50 a day. Unfortunately, that's incorrect, with the daily rate being £35 (£10 per adult and £5 per child), rather than £10 per person. Our service considers this to be a fair rate of DA and it is the rate we've seen Lloyds pay other policyholders, so I think that's reasonable.

In respect of the kitchen, Mr K says he was without facilities between 4 October and 21 December 2021 and relied on takeaway meals. Lloyds said more work appeared to have been undertaken than necessary and that Mr K should have raised these issues with it at the time.

Initially I thought it was fair that Lloyds be able to reconsider this aspect of the claim. But I said, given the significant inconvenience already suffered by Mr K, it should do this promptly and reasonably. I said I thought it should reflect the delays Mr K had suffered and the difficulties this may have created in him being able to complete the works. Unfortunately, Lloyds took several weeks to respond and only asked Mr K to evidence the works undertaken. I asked Mr K to provide further details, which he did and these were forwarded to Lloyds.

Mr K included a document from D detailing the works required in the kitchen. This said the ceiling was to be fully removed, contrary to Lloyds' earlier comments. So, I asked Lloyds to provide its scope of works and a breakdown of the settlement paid. This did provide for a full strip out of the kitchen ceiling and redecoration. So, I'm satisfied that Lloyds has fairly settled this aspect of the claim in terms of the work required and that there was also clearly no need for Mr K to contact it further about it.

Given the extent of the works required in the kitchen I think there was always going to be a loss of facilities and the payment of DA would be appropriate. That this wasn't followed up on by Lloyds is further evidence of its poor handling of the claim. And, despite being provided with additional information about the kitchen, Lloyds still hasn't responded further.

Lloyds says the work on the kitchen took an excessive amount of time. Mr K explained there had been delays due to his builder and then family members contracting Covid in the period. That's a reasonable explanation, as I don't think Mr K would have taken any longer than necessary to complete works, given he'd been living in a "*building site*" for the best part of a year already and was anxious to complete repairs.

So, I think DA should be paid and I'm satisfied that any delays here were outside Mr K's control. Lloyds doesn't appear to have been managing this claim in any meaningful way during this time. Consequently, I think it's fair that it should pay the DA at the rate of £35 per day for the period the kitchen was out of use while repairs were completed.

I accept that Lloyds' T&C's don't specifically refer to meeting loss assessor's fees. But the T&C's do say the policy will "*pay for any necessary expenses incurred*". Given the circumstances here I think these expenses had become "*necessary*" from Mr K's point of view.

His claim had ground to a halt with his bathrooms stripped out, an unsatisfactory outside bathroom arrangement and the issue of the DA left unresolved with no or minimal communication from Lloyds. This wasn't Mr K's fault and I think it was reasonable that he retained his own expert to attempt to get the claim moving. So, I think it's fair that Lloyds do re-imburse Mr K's loss assessor invoice and add 8% per year simple from the date Mr K paid this.

### **My final decision**

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint in part against Lloyds Bank General Insurance Limited.

I direct Lloyds Bank General Insurance Limited to:

- pay Mr K a further £500 in compensation over the £800 already offered for the trouble and upset caused,
- pay DA at the rate of £35 per day for the period before AA was provided between 7-21 December 2020,
- pay DA at the rate of £35 per day for the period 4 October - 21 December 2021 whilst the kitchen was out of use,
- reimburse Mr K's loss assessor invoice of £1,300 with interest at 8% a year simple from the date he paid this.

Lloyds Bank General Insurance Limited must pay the compensation within 28 days of the date on which we tell it Mr K accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

If Lloyds Bank General Insurance Limited considers that it's required by HM Revenue & Customs to deduct income tax from the interest, it should tell Mr K how much it's taken off. It should also give a certificate showing this if Mr K asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 12 August 2022.

Nigel Bracken  
**Ombudsman**