

## **The complaint**

Mr and Mrs B are unhappy that Fairmead Insurance Limited, trading as Legal and General, declined a claim they made under their home insurance policy.

Ms B has represented Mr and Mrs B throughout.

## **What happened**

The circumstances of this complaint aren't in dispute, so I'll summarise the main points:

- Ms B got in touch with Fairmead in 2019 to report damage to a fence and wall. She thought it had been caused by a neighbour since 2015.
- Fairmead considered a claim for the wall under the buildings insurance section of the policy. It also considered a claim for the fence under the separate legal expenses section of the policy.
- A separate complaint has been considered about the legal expenses claim for the wall and an ombudsman has made a final decision.
- This complaint is about the wall. Fairmead didn't think the damage had been caused by an 'insured event' as it didn't think the wall had been damaged maliciously. And whilst it may have been accidental damage, Mr and Mrs B's policy didn't include that cover at that time. Fairmead accepted there had been some issues with the service it had provided and offered £30 compensation.
- Our investigator thought Fairmead had acted fairly when it declined the wall damage claim. And she thought the compensation was reasonable. She asked Fairmead to consider a legal expenses claim for the wall.
- An agreement wasn't reached, so the complaint has been passed to me.

## **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.

- The legal expenses section of the policy considered the fence damage. Another ombudsman has dealt with that complaint, so I can't reconsider it here. But, in summary, they found the claim had been settled fairly. I will focus on the wall.
- The buildings section of the policy provides cover for damage caused in a specific set of ways. For example, damage caused by fire, flood or theft is covered. Each of these causes is known as an 'insured event'.
- Fairmead considered whether any of the damage Ms B claimed for had been caused in any of the ways covered by the policy, ie, by an insured event.

- The policy covers damage caused by ‘malicious acts’ but Fairmead saw no evidence to suggest the neighbour had acted maliciously in relation to the damage. I’ve looked at the photos provided by Ms B. There appears to be water damage to the outside of the wall, with some of the render coming away. And there’s some debris or rubbish left against or near the wall. I agree there’s no clear sign of intent by the neighbour to cause damage. So I don’t think the damage was caused maliciously.
- Fairmead also noted that an optional extra section, for ‘accidental damage’, *may* have covered the damage caused, but it wasn’t included in the policy at the relevant time. When the policy was taken out in 2014, it didn’t include accidental damage. That remained the case at subsequent renewals and at the time the claim was made in July 2019. It was added at the December 2019 renewal – after the claim was made and after the time the damage was thought to have happened. So I think it was reasonable for Fairmead not to consider the claim under accidental damage.
- I’ve checked the other insured events in the policy at the relevant time. None seem likely to have caused the damage.
- Ms B has questioned whether internal and external walls are treated differently under the policy. I don’t see the relevance of this question as the entire claim has been declined. And, as far as I can see, the damage is limited to the external wall, so there is no internal damage to consider.
- Overall, I’m satisfied it was reasonable for Fairmead to decline the claim for the damage to the building.
- If Ms B thinks the damage was caused in any of the ways covered by the policy at the relevant time, including accidental damage from December 2019, she’s entitled to provide Fairmead with evidence to support that. I would expect it to consider any evidence she provides.
- It doesn’t appear Fairmead has considered a claim under the legal expenses section of the policy for the wall. Our investigator suggested it do so and it hasn’t replied. As it hasn’t objected to this suggestion, I’m satisfied it should consider the claim.
- Fairmead accepted there were service issues early in the claim and offered £30 compensation. I agree there was poor communication and a lack of clarity about the status of the claim. That led to some delay responding to the claim. I’m satisfied £30 is reasonable compensation in the circumstances.

## **My final decision**

I uphold this complaint.

I require Fairmead Insurance Limited to:

- Consider a claim for the wall damage under the legal expenses section of the policy.
- Pay £30 compensation if it hasn’t done so already.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B and Mrs B to accept or reject my decision before 9 January 2023.

James Neville  
**Ombudsman**