

The complaint

Mr K and Mrs K complain about AA Underwriting Insurance Company Limited ("AA")'s decision not to offer settlement for their resin driveway. They want AA to increase the offer of settlement to allow them to have their driveway replaced.

What happened

Mrs K and Mr K held home insurance with AA. Their buildings insurance provided cover for their buildings, including paths and driveway, against a range of perils including smoke damage.

In Summer 2021, a commercial building near to Mrs K and Mr K's home was the subject of a fire. This caused noxious smoke to envelope their home and caused damage.

They submitted a claim to AA.

AA sent a surveyor to their home. The surveyor noted that there were sooty deposits on the walls and driveway, and that the paintwork on the gates had been corroded.

AA prepared a schedule of works and contacted Mr K and Mrs K with an offer of settlement.

This was based on the cost it would have been for AA to carry out repair and cleaning works to the brickwork and gates. AA's offer of settlement was for around £1800.00.

Mr K and Mrs K submitted their own quotes for the work. These detailed that the costs for repairs to the building structures would be £4380 including VAT, and the cost to replace the driveway was £4500.00.

AA has declined to offer cover for the driveway, as it contends that there is insufficient evidence that the driveway is damaged.

Mr K and Mrs K complained to AA. AA maintained its decision.

Mr K and Mrs K contacted us.

Our investigator looked into this matter and concluded that the quote the consumer had obtained matched the work which AA had identified. She therefore thought that AA should cover the costs detailed in the quote Mr K and Mrs K had obtained.

In respect of whether the driveway was included or not, the investigator considered that she had not seen sufficient evidence of damage, but accepted that the surveyor had noted soot damage and given Mr K and Mrs K the impression that it would be covered. She therefore recommended that AA pay to Mr K and Mrs K £250.00 to reflect their disappointment.

Neither party accepted that view, so the complaint was passed for an ombudsman decision.

I previously set out a provisional decision in respect of this complaint. In that decision I explained that I was satisfied that there were sooty deposits left on the driveway and that these should be included within the claim. I did, however, consider that it was fair to allow AA an attempt at cleaning the driveway first, and only if that did not work, or if the cleaning damaged the driveway, should replacement be required.

That provisional decision has been shared with the parties and they have been invited to comment.

Mr K and Mrs K have responded indicating they think it immoral to allow AA to carry out cleaning in a way which is advised against by the driveway manufacturer, but that if AA indemnifies them for any damage caused through cleaning then they agree. They also agree to AA carrying out their other repairs, on the same basis.

AA has responded, disputing that my provisional decision amounts to an upheld decision. AA says that the dispute is only about whether the replacement of the driveway is included in the works to be done or settled. It says that it is happy to clean the driveway or include cleaning in the cash settlement.

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.

To respond first to AA's comments, I agree that this complaint centred on whether the driveway replacement was to be included in the scope of works or cash settlement.

In the scope of works put forward to Mr K and Mrs K it was acknowledged that there were sooty deposits, but no cleaning or replacement of the driveway were included in the works.

I have decided that the driveway ought to be included in the works and that the driveway should be indemnified by AA, so that is why the complaint is upheld in favour of Mr K and Mrs K. I have, however said that in the first instance it is reasonable for AA to attempt to clean the driveway rather than replace. If that cleaning process does not work, or if it causes damage to the driveway, then AA would be expected to indemnify Mr K and Mrs K by replacement.

For this reason, it would not be appropriate for the cleaning of the driveway to be cash settled as AA must retain control over the cleaning attempt.

In response to Mr K and Mrs K, I understand that they are anxious about cleaning being attempted against the manufacturer's advice, but I maintain that it is fair for AA to be allowed to try cleaning, in case cleaning may be effective and replacement can be avoided.

Any works undertaken by AA or its agents should be of a reasonable standard and if they are not, then Mr K and Mrs K would be able to complain to AA and then (if necessary) to us, about any defective works.

If AA carries out any works, then it should provide guarantees and warranties for materials and workmanship to Mr K and Mrs K.

As no further arguments about the substantive decision have been received, I remain of the view set out in my provisional decision and I uphold Mr K and Mrs K's complaint.

Putting things right

In order to put matters right, I direct AA to carry out cleaning of the driveway of Mr K and Mrs K's home. If the cleaning is not successful, or if it causes damage to the driveway, then AA must indemnify Mr K and Mrs K for this.

AA should also cash settle the remaining parts of the claim, in line with the approach previously advised (i.e. depending on which party requests settlement by cash).

My final decision

For the reasons given above, and in my provisional decision, I uphold Mr K and Mrs K's complaint and direct AA Underwriting Insurance Company Limited to:

- Carry out cleaning of the driveway of Mr K and Mrs K's property; and
- Cash settle the remainder of the claim in line with the approach set out previously.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K and Mr K to accept or reject my decision before 4 January 2023.

Laura Garvin-Smith
Ombudsman