

## **The complaint**

Miss B and Mrs B have complained about the service provided by Lloyds Bank General Insurance Limited ('Lloyds') following a claim for water damage under their home insurance policy.

For the avoidance of doubt, 'Lloyds' includes its representatives, loss adjusters and builders.

## **What happened**

In August 2021 Miss B and Mrs B noticed a crack in the kitchen ceiling of their home and contacted Lloyds to seek advice. Shortly afterwards, Miss B reported the collapse of the kitchen ceiling to Lloyds. Following discussion with Lloyds', it instructed a loss adjuster who in turn, instructed a builder to review the damage. Miss B and Mrs B subsequently engaged the services of a builder on Lloyds' recommendation. The builder considered that the damage had been caused by a leaking pipe below the bathroom floor. He said he'd found two leaks which he repaired, and he replaced all the old pipes.

Lloyds requested Miss B and Mrs B to supply a report to specify the cause of damage from their builder, however they sent a video recording of the leak instead. Lloyds considered that the water damage had been caused by wear and tear due to failed sealant around the bath and declined the claim. Miss B and Mrs B complained about this decision, and also about the way in which Lloyds had spoken to Mrs B. They wanted Lloyds to reimburse them for the total repair costs and also wanted their kitchen ceiling to be repaired and their kitchen decorated by Lloyds. However, Lloyds considered that it had provided a fair outcome.

Miss B and Mrs B were unhappy with the outcome and made a complaint to this service. Our investigator initially agreed with Lloyds that the damage had been caused due to sealant failure and was solely a wear and tear issue, so not covered under the policy. Following receipt of additional information however, the investigator partially upheld the complaint and considered that leaking pipes had contributed to the damage. It was his final view that Lloyds should reimburse Miss B and Mrs B for the cost of replacing the ceiling joist affected by the leaking pipe.

His reasoning in reaching this conclusion was that whilst he felt that Lloyds had shown that the main cause of damage to the joists was the failed sealant, with water travelling along the joists, the builder's report explained that a cracked pipe had also been leaking and this had affected one of the joists. He said that Lloyds hadn't evidenced faulty workmanship or materials and this contention wasn't supported by the builder's report. He wasn't persuaded that Miss B and Mrs B were aware of the leak prior to the ceiling collapse. He considered that Lloyds should reimburse Miss B and Mrs B for the cost of replacing the ceiling joist affected by the leak from the pipe, with Miss B & Mrs B to provide a breakdown of costs.

Lloyds ultimately accepted the investigator's view and agreed to consider the costs for the one joist. It offered £300 to Miss B and Mrs B in settlement of their claim (less the excess amount). Miss B and Mrs M were unhappy with the sum offered and said they were expecting the business to cover the whole outstanding balance of around £3,300. The matter has therefore been referred to me to make a final decision in my role as Ombudsman.

## 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 key issue for me to determine is whether Lloyds applied the terms and conditions of the policy in a fair and reasonable manner when it declined Miss B and Mrs B's claim. My provisional conclusion is that Lloyds didn't act in a fair and reasonable manner in all respects. I'll summarise the submissions and evidence of the parties and then provide my reasoning for my conclusion.

Miss B and Mrs B said that when they first contacted Lloyds to ask for assistance, the ceiling had no obvious signs of water damage. Lloyds told them there wasn't much they could do until it got worse. Two days later, they said it did get worse, and the ceiling collapsed. Miss B and Mrs B said that Lloyds' representative who inspected the damage had a cursory look and determined that the leak was caused by defective sealant around the bath and was not therefore covered by the policy. Miss B and Mrs B then engaged their own builder who took down the ceiling and found two pipe leaks and then replaced all the old pipes and took out the bath to make sure he hadn't missed anything. Miss B and Mrs B said they'd also provided video evidence of the leak which they considered should have been enough to prove the claim. Miss B accepted that she should have contacted the loss adjuster sooner, but thought Lloyds wouldn't have done anything until the pipes were fixed in any event.

Miss B and Mrs B said that they'd tried to make their home safe, and the matters fixed that they didn't think would cause insurance problems. They'd paid their home insurance in good faith, thinking their home would be covered for such events. As to the service received, Miss B thought that Lloyds had spoken inappropriately to Mrs B and that they'd both been treated in an appalling manner. They said that the builder spent 20 minutes talking to Mrs B *'like she was some kind of idiot for wasting his time.'* Miss B and Mrs B also complained that they were left without a shower or bath in their home for nearly six weeks, for something that they thought would have been a day's work for a building company. Both Miss B and Mrs B had to go to a local gym or friends for a shower during that period and Miss B said that this caused stress for Mrs B and affected her health.

In terms of documentary evidence, Miss B and Mrs B produced a copy of their builder's invoice. It recorded that he'd removed and replaced damaged pipes and rotten joists. He said that this was due to damaged pipes running through the joists. He stated that workmanship or faulty materials were not to blame and that the piping had been there for a number of years. The total cost of materials and labour amounted to nearly £3,300.

Lloyds provided its final response to Miss B and Mrs B's complaint in October 2021. It said that the photographic evidence showed the sealant around the bath to be in a very poor state of repair and that its builder's professional opinion was that the damage had been caused by the failure of this sealant. It said it asked for Miss B and Mrs B's report as well as the damaged pipes to validate the claim but hadn't received these. Lloyds noted that there was water damage found between the bathroom floor and kitchen ceiling below, and also to the wall between the bathroom and bedroom. It concluded that the deterioration and lack of sealant around the bath had allowed water to enter behind the tiles and run down the wall onto the floor and joists. It noted that the damage was *'severe and has been ongoing for several years. This damage would not be considered under the policy terms and conditions.'*

It explained that the general exclusions in the policy meant that certain damage wasn't covered. Such excluded damage related to general maintenance, gradually operating causes, faulty workmanship, poor design, defective or inherently unsuitable materials or

damage caused by the failure or lack of sealant and or grout. It noted Miss B's video showing *'a small drip of water coming from a black pipe under the bathroom floor, however this doesn't show a constant leak as such, just water dripping from the pipe. This drip was not evident at the initial visit.'*

Lloyds also said that the customer mentioned that her builder had initially said that incorrect pipes had been installed and that the damage had been ongoing for several years. It said that if Miss B and Mrs B had provided the information it had requested, it could have contacted the builder to discuss matters in more detail. *'As it stands the customer has not substantiated the cause of damage from the black pipe, the drip can only be seen from one side of the pipe, the blind side, we don't know if water is coming through the floor then falling onto the pipe, or actually coming out of the pipe.'*

Lloyds' expert considered that the joist in question had been damaged by water coming through the sealant below the shower and said *'Water will travel along anything horizontal and impervious before gravity takes effect and the water collects to drip downwards. A pipe is a good example of such a surface. Water seeping along a pipe does not mean that the pipe is leaking.'* Ultimately however, Lloyds appeared to accept that there was a *'minor pipework leak'* although it *'barely touches one side of the joist'*. It considered that the damage to the joist was widespread and affected both sides and the underside of the joist, supporting the view of a more widespread water ingress from the bathroom above, rather than localised damage from a slow drip.

Lloyds apologised if Miss B and Mrs B felt that its representative had been rude although refuted the allegation and said that he'd only given a view of what was covered under the policy and explained this by giving examples.

Lloyds' case notes show that in mid-September 2021, Miss B e-mailed Lloyds' loss adjuster informing him that the problem appeared to relate to the pipes and asked him to attend. The loss adjuster instead asked for her builder's report and evidence and said he wouldn't attend until he'd received the report. Instead, Miss B sent the video showing the leak and stated that work was almost complete and sent details of how much had been spent and also said that she would send in the builder's report. Lloyds had reiterated that plumbing wasn't covered by the policy and advised that invoices and/or receipts would be needed, not just a list of what had been paid. Lloyds considered the video to be insufficient and didn't explain the damage above floor level and said there was no evidence of pipe repair.

The terms and conditions of the policy are the starting point for my decision. The policy does cover *'escape of water'* as a peril. Under the heading of general exclusions however it refers to gradually operating causes and wear and tear..... It also states *'Examples of wear and tear include...failure of sealant and/or grout'*

Miss B and Mrs B were adamant that all the damage to the flooring, joists, electrics, and ceiling below the bath had been caused by pipe leaks and that this was confirmed by their builder. Lloyds was equally clear that all damage had been caused by the failure of sealant around the bath.

Having looked at all the evidence, including the video produced by Miss B and Mrs B and all photographic evidence, it's clear that the sealant around the bath was in an extremely poor state of repair. It also appears from the photographs that a plastic panel had been used as a repair at some point which indicates that there was recognition of an issue with the tiling and sealant. In the circumstances, I consider that it's very likely that the condition of the sealant would have led to water leaking into the walls and onto the floor and causing damage below the floor over a long period of time. Such damage caused due to defective sealant is clearly excluded from the Miss B and Mrs B's policy, and this is a standard exclusion in home

insurance policies. I do consider that the evidence points to most of the widespread damage having been caused by water leaking due to the failure of the bath sealant, which allowed water to enter behind the tiles and run down the wall onto the floor and below. I also note that there was considerable damage to the flooring above the pipework and its more likely that this was caused by water leaking from the bathroom rather than from a pipe below.

Nevertheless, I do consider that water damage has been caused here by dual reasons. Miss B and Mrs B's video shows water dripping from a pipe, with considerable damage to a joist below this slow drip. On the balance of probabilities, I consider that a pipe leak had occurred and that this was the predominant cause of damage to this joist. The damage appears to be around the pipe, and I consider that a 'glancing' drip could indeed cause considerable damage over a long period of time. Miss B and Mrs B wouldn't have been aware of any slow leak being absorbed by the joist until the ceiling collapsed. I note that a formal written report wasn't produced by Miss and Mrs B's builder as Lloyds requested. His quote and invoice haven't been supplied on formal headed paper with address and business details. They do however constitute limited evidence to support the case that there was a pipe leak. I also accept that Lloyds' initial visit didn't focus on the pipework and focused on the sealant, so that slow drip of the type evidenced in the video wouldn't have been noticed.

Both parties accept that the damage had been ongoing for a number of years, and on the balance of probabilities, I'm persuaded that Miss B and Mrs B hadn't become aware of any pipe leak or joist damage until a crack appeared in the ceiling and the ceiling collapsed in the summer of 2021. Damage wouldn't therefore be excluded due to the gradual deterioration or wear and tear exclusions in the policy. The service's approach to this is that we look at the policy terms and conditions and any exclusions for damage which occurs gradually. We appreciate that strict application of the policy terms would mean that the insurer could decline the claim. However, we don't consider this to be a fair and reasonable approach in circumstances such as these. This is because I've concluded that Miss B and Mrs B weren't aware of the damage happening and therefore couldn't have done anything about it sooner.

As to any suggestion that Miss B and Mrs B's builder had initially said that workmanship or faulty materials were to blame for the pipework issue, I note that the pipework is likely to have been installed in accordance with standards of installation at the relevant time. It's likely that they'd been in place for many years without issue and without cracking. There's no available written expert evidence to support this suggestion, and on the balance of probabilities, I don't consider that the exclusions in the policy regarding poor workmanship or materials apply here.

It's regrettable that Miss B and Mrs B have been waiting for a final resolution to their complaint for 18 months and have had to live with the uncertainty and stress surrounding that lack of resolution. Having said this, disputes around policy terms and conditions as to whether damage is caused by an insured event or lack of maintenance can be complex. This is particularly in cases where expert reports are inadequate or miss salient facts. I note that Miss B and Mrs B had asked Lloyds to come and visit the property to look at the pipework as work was progressing, however Lloyds declined to do so and instead required a cause of damage report from their builder. It's unfortunate that Lloyds didn't take the opportunity to investigate and report on pipework damage or to provide further support to Miss B and Mrs B so that the only available written evidence regarding pipework is the limited written evidence of Miss B and Mrs B's builder. Miss B also appealed to Lloyds for assistance on more than one occasion. I've listened to two phone calls in this respect and despite the obvious distress which the incident was causing, the insurer's support didn't appear to be as proactive or as helpful as it could have been. I also note however that Miss B and Mrs B didn't comply with a reasonable request to produce a cause of damage report, particularly when most of the remedial work had been completed.

In all the circumstances, I agree with our investigator that Lloyds should cover the cost of replacing the joist which was immediately below the pipe leak. Miss B and Mrs B need to supply an itemised breakdown of the costs attributable to this element of the damage before this can happen. This sum will be an appropriate proportion of the total invoice submitted by the builder for £3,313.44, and will include material, labour and installation costs in relation to this joist only.

### **My final decision**

For the reasons given above, I uphold Miss B and Mrs B's complaint and I require Lloyds Bank General Insurance Limited to do the following in response to their complaint: -

- Settle Miss B and Mrs B's claim for damage to the one joist affected by the pipework leak, within 28 days following submission by Miss B and Mrs B of a formal written breakdown of the proportion of the builder's invoice attributable to this item.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B and Mrs B to accept or reject my decision before 16 March 2023.

Claire Jones  
**Ombudsman**