

## The complaint

Mr S complains about how Liverpool Victoria Insurance Company Limited trading as LV= (LV=) handled a claim under his home insurance policy for damage from a leak.

References to LV= include their agents who administer the policy.

## What happened

In January 2022 Mr S contacted LV= to tell them about a water leak under the lounge and kitchen floor at his property, as he was losing a significant amount of water. The local water company checked the area of his property and said the leak wasn't coming from the mains water supply to the property. Rather, it was coming from the pipes within the property boundary (so wouldn't be their responsibility). LV= appointed a contractor (A) to assess the cause of the leak and the work needed to fix it. A said they'd need to fix the pipe by digging up the lounge or kitchen floor to locate the leak and fix it.

Mr S was unhappy at the prospect of the disruption and damage that digging up his floor (wood flooring on a concrete base) would cause, and the uncertainty of whether it would locate and fix the leak. As an alternative, he wanted LV= to re-route the mains water pipe through the lounge into the kitchen (along the skirting board) He thought this would involve less hassle and mess (and less cost). However, LV= wouldn't agree to re-routing the pipe, only digging up the floor and fixing the existing pipe. As Mr S didn't want this, LV= offered a cash settlement (£793, net of the policy excess of £300) which represented the standard estimated cost (to LV=) of fixing the leak (repairing the pipe). They said they'd consider covering the cost of re-routing the pipe if Mr S could provide evidence of a leak under the property and an estimate from a contractor for the work.

Further discussions between Mr S and LV= failed to reach an agreement, so Mr S arranged for the re-routing to be carried out, from the front garden into the lounge wall, along the lounge and through to the kitchen (and the stop tap). The work cost £3,800.

Unhappy at their declining to pay for re-routing the pipe, Mr S complained to LV=. But they didn't uphold the complaint. In their final response they restated their position that the policy would only cover a repair to the damaged (leaking) section of pipe and not re-routing the pipe, as it was inside Mr S's property. Having asked Mr S for a report to evidence the leak location (and not receiving one) LV= confirmed they'd only offer the cash settlement based on repairing the leaking pipe. LV= also said re-routing the pipe was maintenance, something the policy didn't cover.

Mr S then complained to this service, unhappy LV= not agreeing to cover the cost of re-routing the pipe. He was also unhappy at the time taken discussing the issue and LV= giving contradictory views on what they needed from Mr S by way of evidence of the leak (and what they were prepared to do. He wanted LV= to pay for the re-routing the pipe, which he said was cheaper than LV='s option of digging up his property and fixing the leak.

Our investigator upheld the complaint, concluding LV= hadn't acted fairly. While the policy only provided cover for a repair to the pipe (and re-routing would constitute betterment), she understood why Mr S was reluctant for his property to be dug up for the leak to be fixed,

which could have caused damage through flooding from the leak, as well as the disruption and stress of the work and potential damage to the kitchen. She also thought the full cost of digging up the property and fixing the leak would exceed the cost incurred by Mr S. She thought LV= should pay the £3,800 Mr S had incurred in re-routing the pipework (less the £793 they'd paid Mr S) plus interest. She also thought LV= should pay £200 compensation for the distress and inconvenience caused to Mr S.

LV= disagreed with the investigator's conclusions and requested an ombudsman review the complaint. From review of the claim notes, they thought Mr S wanted a re-routing of the pipe from the outset – but it wasn't covered under the terms of the policy. They offered a standard pipe repair settlement as Mr S wasn't willing for A to attend to locate the leak (and fix it). They also indicated the settlement could increase if Mr S could show a repair wasn't possible without having to access the property from the inside. However, the estimate from Mr S for the re-routing work didn't indicate a repair from outside the property wouldn't be possible – which meant he hadn't shown a re-routing was the most cost-effective solution.

In my findings I concluded LV= hadn't acted fairly. While I concluded LV= acted in line with the policy terms in offering a cash settlement, from the evidence available the leak within the boundary of the property (which would make it the responsibility of Mr S). On LV= asking for a report to evidence the leak location, I wasn't persuaded it was reasonable, as there was a leak within – underneath - the property from the water company's conclusions.

I also noted LV= offered a settlement based on the cost of a pipe repair, but it wasn't clear whether it included any trace and access work to find the source of the leak. If the cost wasn't included in the settlement offer to Mr S then LV= hadn't acted fairly. I also considered that in the absence of any trace and access work (or LV= digging up the property to locate and fix the leak) it wasn't possible to say with certainty whether the pipe could have been repaired, or whether it would have to be replaced. If the latter, it would be likely to cost more than a standard repair. I didn't think this fair or reasonable in the circumstances.

Having come to these conclusions, I thought about what LV= should do to put things right. While I thought LV= hadn't acted fairly in offering a cash settlement based on a standard pipe repair, I also considered the issue of betterment and LV='s point about the re-routing of the pipe being maintenance. In re-routing the pipe, Mr S had been put in a better position than he was in before the incident. As a general principle, insurers don't have to pay for things that result in betterment, so I didn't think LV= should cover the full cost of re-routing.

On the issue of maintenance, I didn't agree re-routing the pipe was maintenance, as it was a solution that avoided having to dig up Mr S's property, locate and fix the leak (either by repairing the pipe or replacing it).

Having concluded LV= hadn't acted fairly in basing their cash settlement on a standard pipe repair – but that it wouldn't be reasonable for them to cover the full cost of re-routing the pipe – I thought it would be reasonable for them to settle the claim by covering half the cost incurred (£1,900) less the £793 they'd already paid.

I also considered the issue of compensation. I thought Mr S would have suffered distress and inconvenience. I thought £200 would be reasonable.

Because I reached different conclusions to those of our investigator, I issued a provisional conclusion to give both parties the opportunity to consider matters further. This is set out below.

*What I've provisionally decided – and why*

*My role here is to decide whether LV= has acted fairly towards Mr S.*

*The key issue concerns LV= declining to cover re-routing the pipe at Mr S's property, saying the policy only provides for a repair of the pipe, not re-routing. Mr S says LV= should pay for the re-routing as the alternative would be to dig up his property to locate and fix the leak (repair the pipe). This would cause significant damage and disruption, as well as only covering one leak (not multiple leaks) and meant the risk of future leaks. He also says the work would have been significantly more costly than the cost of re-routing the pipe.*

*I've considered both views carefully, including the points made by Mr S and LV= as well as the information and evidence available. Having done so, I've concluded LV= haven't acted fairly. While I've reached this conclusion, I've also considered what would be a fair outcome in the specific circumstances of the case. I'll set out why I've come to these conclusions.*

*I've first considered what the policy provides for, in the context of the circumstances of the case. LV= say the policy only provides cover for repairing a leaking pipe, not replacement (re-routing). But they haven't (in their final response or separately) referred to the specific section of the policy they think is applicable. So, I've looked at the policy document. Under the section headed "How will my buildings claim be settled?" it provides for the following options (to be agreed with the policyholder):*

- *arrange for a repair or replacement using one of our suppliers; or*
- *pay the cost of repair; or*
- *make a cash payment."*

*In the circumstances of this case, Mr S didn't want LV= to repair the pipe, given it would involve digging up his property. In those circumstances – given that LV= didn't agree to pay the cost of the pipe re-routing carried out by Mr S's contractor - then the cash payment option was the only alternative. Given this, the same section of the policy goes on to say:*

*"If we can offer a repair or replacement through one of our suppliers and you choose not to have the item repaired or replaced or you wish to use your own supplier, we will not pay more than the amount we would have paid our supplier."*

*Given this wording, I've concluded LV= acted in line with the policy terms in offering a cash settlement.*

*However, I've also considered the above wording in the context of LV='s view that the policy only provides for a repair of the pipe. But the wording (of the first option) specifically refers to arranging a repair or (my emphasis) replacement (through one of their suppliers). While the second option only refers to repair, the additional wording on the cash settlement also refers to a policyholder choosing not to have the item repaired or replaced (in which case LV= would base a cash settlement on the amount they would have paid their supplier).*

*Looking at the evidence available, LV='s notes on Mr S's complaint include reference to him being in contact with the local water company and their telling him there was a leak within the property. And that they'd checked the area around the property and concluded the leak was within the boundary of the property (which would make it the responsibility of Mr S). This indicates there was a leak within the boundary of the property. On LV= asking for a report to evidence the leak location, I'm not persuaded that was reasonable in the circumstances. It's clear there was a leak within – underneath - the property from the water company's conclusions. In the circumstances, I'd expect the trace and access provisions in the policy to cover the work needed to locate the source of the leak.*

*The Buildings section of the policy includes the following reference to trace and access under the What's covered heading:*

## 16. Trace and access

*We'll pay up to £5,000 towards the cost to remove and replace any part of the building to find the source of a water or oil leak from any fixed tank, appliance or pipe forming part of your home.*

*I've not seen any reference to this section of the policy being applied when Mr S notified LV= of the leak. Rather, LV= have offered a settlement based on the standard estimated cost of a pipe repair. I haven't seen a definition of the work included within this standard cost, so it's not clear whether it includes any necessary trace and access work to find the source of the leak (not just repairing the pipe, being the source of the leak).*

*If the cost of any trace and access isn't included in the settlement offer to Mr S then I think LV= haven't acted fairly in reasonably. I've also considered that in the absence of any trace and access work being carried out (or LV= digging up the property to locate and fix the leak) it's not possible to say with certainty whether the pipe could have been repaired, or whether it would have to be replaced). If it was the latter, that would be likely to cost more than a standard repair (which LV= used as the basis of their cash settlement offer).*

*In other words, LV= have based their cash settlement on the assumption a standard repair would have been possible, whereas it may have been necessary to replace the pipe (at greater cost). I don't think this is fair or reasonable in the circumstances, given my conclusions above.*

*Having come to this conclusion, I've thought about what LV= should do to put things right.*

*While I think LV= haven't acted fairly in offering a cash settlement based on the assumption of a standard pipe repair, I've also considered the issue of betterment (as well as LV='s point about the re-routing of the pipe being maintenance). In re-routing the pipe, Mr S has been put in a better position than he was in before the incident. As a general principle, insurers don't have to pay for things that result in betterment (they should put the consumer in the position they were before the incident). So, thinking about the circumstances of the case, I don't think it's fair and reasonable for LV= to have to cover the full cost of the pipe re-routing.*

*On the issue of maintenance, I don't agree that re-routing the pipe is maintenance – it's a solution to the issue of the leaking pipe underground that avoids having to dig up Mr S's property, locate and fix the leak (either by repairing the pipe or replacing it). So, it's a solution to the problem of the leak.*

*Given these conclusions, I've thought about what would be a fair and reasonable outcome in the circumstances of the case. Having concluded LV= haven't acted fairly in basing their cash settlement on an assumption of a standard pipe repair – but also that it wouldn't be reasonable for them to cover the full cost of the re-routing of the pipe – then I think it would be reasonable for them to settle the claim by covering half the cost incurred by Mr S (£1,900) less the £793 they've already paid Mr S.*

*Given I've concluded LV= haven't acted fairly, I've also considered the issue of compensation. Given the sequence of events and what Mr S has told us, I think he will have suffered distress and inconvenience. Considering all the circumstances of the case, I think £200 in compensation for distress and inconvenience would be reasonable.*

*My provisional decision*

*For the reasons set out above, it's my provisional decision to uphold Mr S's complaint in part. I intend to require Liverpool Victoria Insurance Company Limited trading as LV= to:*

- *Settle Mr S's claim by covering half the cost incurred by Mr S (£1,900) less the £793 they've already paid Mr S.*
- *Pay Mr S £200 in compensation for distress and inconvenience.*

Mr S responded to say that while he agreed with most of the provisional decision conclusions, he thought 75% of the cost of the pipe re-routing would be fairer (than 50%). He also thought the time taken by the incident and dealing with LV=, with the stress and impact on his health, meant a higher compensation figure for distress and inconvenience would be fair. He also thought the cost of LV= digging up his property, locating and fixing the leak would be significantly more than the cost he'd incurred in re-routing the pipe. He also said the photographs and video of the leak was clear evidence of the leak.

LV= responded to say the water company hadn't confirmed the leak came from *under* the property. The water company's responsibilities end at the boundary of Mr S's property (the boundary of the land) so the leak was on the land of the property (so Mr S's responsibility) and the water company hadn't confirmed the leak was under the property. So, it was reasonable for LV= to be asking for confirmation the leak was under the property, to consider anything other than a standard repair. Without evidence the leak was under the property, they couldn't determine whether re-routing would have been cheaper than repairing the leak. So, they didn't think they should contribute further towards the re-routing cost.

### **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.

My role here is to decide whether LV= have acted fairly towards Mr S.

I've considered each of the points raised by Mr S and by LV= in turn.

On Mr S's point that 75% of the cost of the pipe re-routing would be fairer (than 50%), I considered what I thought would be a fair and reasonable solution as part of my provisional decision. This was a balance, firstly, of my conclusion LV= hadn't acted fairly in only offering a cash settlement based on a standard repair (when the cost could have been higher, both for the cost of locating and fixing the leak, and the possibility the pipe would have to be replaced rather than repaired). And, secondly, that in re-routing the pipe there was an element of betterment, which it wouldn't be reasonable for LV to cover. Given the uncertainties around what might have happened, then there's an element of judgement in where a fair and reasonable settlement lies. I appreciate Mr S would prefer to receive a higher proportion of the cost of re-routing the pipe, but I'm not persuaded this would be reasonable. So, I haven't changed my view on this point.

On the issue of compensation, again I understand why Mr S feels a higher amount would be fairer. However, in concluding £200 would be fair and reasonable, I took account of both the principles we apply as a service when considering fair and reasonable compensation for distress and inconvenience, as well as the specific circumstances of the case. I've thought about this again in the light of Mr S's comments, but I still think £200 is fair and reasonable.

On LV='s points, I've first considered their point that, while the leak was on the land of Mr S's property the water company hadn't confirmed the leak came from *under* the property. However, looking at what happened (set out earlier in this decision). LV='s contractor(A) said they'd need to fix the pipe by digging up the lounge or kitchen floor to locate the leak and fix

it. And LV= wouldn't agree to re-routing the pipe, only digging up the floor and fixing the existing pipe. Both things indicate LV= were working on the basis there was a leak under the property. And there is also the point in my provisional decision (which LV= haven't challenged) that in the absence of any trace and access work being carried out (or LV= digging up the property to locate and fix the leak) it's not possible to say with certainty whether the pipe could have been repaired, or whether it would have to be replaced). I've also considered the photographs and video provided by Mr S. Taking all these points into account, I'm still persuaded there was a leak under the property, so I haven't changed my view of this issue.

LV='s second point is that without evidence the leak was under the property, they can't determine whether re-routing would have been cheaper than repairing the leak. So, they shouldn't contribute further towards the re-routing cost. However, I concluded if the cost of any trace and access isn't included in the settlement offer to Mr S then I think LV= haven't acted fairly in reasonably. I've also considered that in the absence of any trace and access work being carried out (or LV= digging up the property to locate and fix the leak) it's not possible to say with certainty whether the pipe could have been repaired, or whether it would have to be replaced). If it was the latter, that would be likely to cost more than a standard repair (which LV= used as the basis of their cash settlement offer). So, I haven't changed my view that LV= should make a further contribution as a fair and reasonable settlement.

However, as set out earlier, I don't think they should cover the element of betterment in re-routing the pipe. And given the uncertainties around what might have happened, then there's an element of judgement in where a fair and reasonable settlement lies. Given these factors, I still think that covering half the cost incurred by Mr S is fair and reasonable.

### **My final decision**

For the reasons set out above, it's my final decision to uphold Mr S's complaint in part. I require Liverpool Victoria Insurance Company Limited trading as LV= to:

- Settle Mr S's claim by covering half the cost incurred by Mr S (£1,900) less the £793 they've already paid Mr S.
- Pay Mr S £200 in compensation for distress and inconvenience

Liverpool Victoria Insurance Company Limited trading as LV= must pay the compensation within 28 days of the date on which we tell them Mr S accepts my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 April 2023.

Paul King  
**Ombudsman**