

The complaint

Miss C and Mr J are unhappy about Admiral Insurance (Gibraltar) Limited's handling and settlement of their storm damage claim under their home insurance policy.

What happened

Miss C and Mr J made a claim after noticing water coming in through their roof. There were initial discussions with Admiral about the best course of action. In the end it was agreed a temporary repair should be carried out as soon as possible. Admiral accepted that there had been storm conditions on the date of incident and agreed to pay for the temporary repairs. Later Miss C spoke to Admiral and said they might use their own contractor for the full repair and not go through Admiral. At this point Admiral closed the claim and took no further action.

Miss C and Mr J went back to Admiral sometime later, the claim was reopened, and Admiral asked to inspect the damage. Admiral reviewed the damage and the temporary repair and declined to pay the claim. Miss C and Mr J complained raising numerous points about the handling, the advice, the closing of the claim, the time taken in telephone calls and the decision not to pay the claim. Admiral did pay compensation for the service failings but as the matter couldn't be settled to Miss C and Mr J's satisfaction, they brought a complaint to this service.

Our investigator didn't uphold the complaint. He said he felt the mortar coming loose was most likely highlighted by the storm and so he accepted Admiral's point that the damage was caused by wear and tear. In terms of the claim handling our investigator said the compensation offered was fair and reasonable for the errors that occurred.

Miss C and Mr J didn't accept this and asked for their complaint to be passed to an ombudsman for a final decision.

In my recent provisional decision, I said:

I'm afraid that in this case it seems to me that the parties have never been fully clear on the issues and it seems as though some debates have been at cross purposes throughout.

I would normally work through our usual three questions for storm cases at this point, but in view of Admiral's reason for declining the claim, I don't think it's necessary.

It seems that Admiral accept the discussion that took place when it was decided to close the claim was a mistake. I think that's fair. I found the call a little hard to hear but it appeared to me that Miss C was suggesting she might not "go through Admiral at all". So, I can understand why Admiral thought Miss C and Mr J didn't want to continue with the claim. Admiral did confirm at the end of the call that it wouldn't take any further action. So, I think at that point, as far as Admiral saw it, it was then down to Miss C and Mr J to decide what to do.

The call was hard to hear and there's an acceptance from Admiral that a mistake might have been made. However, in its final response Admiral said part of the reason for declining the

claim was that Miss C and Mr J hadn't taken action to mitigate further damage after the temporary repair. I think as Admiral accepted that the closing of the claim was a mistake it doesn't seem to follow that it can rely on this general condition under the policy.

"3. Care of your property

You and your family must maintain your property in a good state of repair and take care to prevent any accidents, loss, damage, or injury. If loss or damage does happen, you must take action to prevent further loss or damage. If it is safe to do so."

Admiral went on to conclude:

"I find that the failure to appoint a contractor for the permanent repair for three months has resulted in additional damage. As this contravenes the aforementioned condition, we cannot look to cover the damage on this occasion. As a result, I cannot uphold this complaint point."

As this appears to be the reason given for declining the claim, I don't think that's fair and reasonable. Admiral has already accepted that the decision to close the claim earlier might have been a mistake. That is certainly how Miss C and Mr J see it. They say it was never their intention not to claim and the reason for the delay is because they were expecting Admiral to act and follow up after the temporary repair had been concluded.

Miss C and Mr J said Admiral had accepted at the outset that there had been a storm at the point when they suffered the damage. They said as Admiral had paid for the temporary repair it followed that Admiral should continue to deal with the claim and pay for the roof and the internal damage to their home.

I can see Miss C and Mr J's point. I don't think the general condition about mitigation can be applied here. Both parties thought the other party was taking action. As it seems accepted that this was some sort of mistake it doesn't feel fair for Admiral to say Miss C and Mr J didn't mitigate their loss. They were expecting Admiral to resolve what they felt was a valid claim. I can understand the concern from both sides so I think the fairest outcome is for Admiral to review the evidence again and decide whether or not the claim for the external and the internal damage should be dealt with subject to the remaining policy terms and conditions.

In terms of the claim handling and the issues that Miss C and Mr J faced I can understand their frustration. I note Mr J eventually showed his frustration in one of the later phone calls. A lot of time was spent on the phone and a lot of it was unproductive. There were issues around some of the advice Mr J was given, the service provided and the amount of time it took to get things done. In terms of compensation for the issues Admiral paid £200 for the delays encountered. As far as I'm aware Miss C and Mr J have banked the cheque for this amount. But also because of the poor telephone advice about claims being declined regularly due to wear and tear Admiral sent Miss C and Mr J a further £50 compensation. So, for the overall issues with the claim, the advice, and the handling I think the total of £250 is reasonable. I don't think Miss C and Mr J have banked the further £50 payment so they might need to discuss this further with Admiral if the payment method is out of date.

Responses to my provisional decision

Miss C and Mr J responded. Their main points were:

Admiral should deal with the internal damage as this wouldn't have got worse if the claim had been dealt with for the roof right at the start as it should have been. Miss C and Mr J

think this might be outside of the normal scope of the policy, but they consider it would be reasonable for Admiral to pay for it.

Admiral responded and asked for clarity about what mistake had been made when it initially closed the case. Admiral thinks Miss C and Mr J confirmed they wished to withdraw the claim. Admiral isn't sure what more it could have done.

Admiral responded further it thinks it was clear that Miss C and Mr J wanted to withdraw the claim. And stated it didn't hear again from the customer until sometime later. It said the claim was withdrawn on the basis the customer was getting the temporary repair done. Admiral said the customer was aware of this and should have taken more action to mitigate the loss. Admiral doesn't accept Miss C and Mr J thought it was doing anything. Admiral has no record of it making a mistake.

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.

I think regarding Miss C and Mr J's point around the internal damage in my findings above I've asked Admiral to consider that along with the external damage when it does conduct a review of the claim. Just to make sure that point is highlighted here's what I said above *"the fairest outcome is for Admiral to review the evidence again and decide whether or not the claim for the external and the internal damage should be dealt with subject to the remaining policy terms and conditions."* So, I am asking Admiral to review both.

I think Admiral make a fair point. Perhaps use of the word *"mistake"* by me might be a little harsh. What Admiral did though was it accepted there might have been a misunderstanding in the subsequent telephone calls that took place between it and Miss C and Mr J. Whereas, the new Admiral investigator reviewing the file now is focussing on the original call between it and Miss C I've referred to the later call where Admiral talk about the misunderstanding. And so, it was willing to reopen the claim and look at it on that basis. So, I think misunderstanding was Admiral's feeling on the situation rather than it made a mistake. If there is any element of doubt, then it's fair and reasonable for Admiral to reconsider. And despite the latest responses from Admiral it's clear that at the time the claims team felt that the right thing to do was to reassess the claim. I don't think that has suddenly changed now despite the response from Admiral to my provisional decision. I'm not clear on the point Admiral makes about the temporary repair at this stage, as Admiral agreed to pay for the temporary repairs.

However, I don't think the change in the words between mistake and misunderstanding makes any difference to the overall fair and reasonable outcome of this case. Nothing from the parties in response to my provisional decision makes me think I need to change it. So, my provisional decision will become my final decision.

Putting things right

- review the evidence again and decide whether the claim should be dealt with subject to the remaining terms and conditions.

My final decision

I uphold this complaint.

I require Admiral Insurance (Gibraltar) Limited to:

- review the evidence again and decide whether the claim should be dealt with subject to the remaining terms and conditions.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C and Mr J to accept or reject my decision before 19 April 2023.

John Quinlan
Ombudsman