

The complaint

Mr and Mrs M have complained about Accredited Insurance Europe Limited's (AIEL) decision to decline a claim they made for flood damage and cancel their home insurance policy.

What happened

On 6 October 2022 Mr and Mrs M's home was damaged by flood. They made a claim to their insurer, AIEL.

AIEL instructed a contractor to visit Mr and Mrs M's home to assess the damage. A Surveyor attended and took photos and moisture content (MC) readings.

Flooring to one of the ground floor rooms was removed by an appointed contractor of AIEL on 10 October 2022. The Surveyor said a second visit would be necessary to remove the remaining flooring which they said was damaged beyond economical repair.

On 17 October 2022 AIEL issued a seven day cancellation notice to Mr and Mrs M. It said they had failed to tell it about building works carried out to the property. The policy said Mr and Mrs M needed to tell AIEL before building works were carried out. It said if it had known about the buildings works, it wouldn't have offered cover and so it would have cancelled the policy in September 2022 - when the works were carried out.

This meant AIEL didn't provide cover for Mr and Mrs M's claim.

On 17 October 2022 contractors came to Mr and Mrs M's home and removed the remaining damaged flooring.

Mr and Mrs M complained to AIEL. They were unhappy with its decision to cancel the policy and not meet their claim. They were unhappy with the condition their flooring was left in. They said the contractor acted on behalf of AIEL and ripped out 95% of the flooring - left damaged skirting boards, door thresholds and an exposed gripper bar which led to an injury to Mr M's heel.

AIEL didn't uphold Mr and Mrs M's complaint. It said it had correctly cancelled the policy. AIEL said that it had a duty as the insurer to carry out necessary works to Mr and Mrs M's home to prevent further damage to the property.

AIEL said it wouldn't look to recover the costs of the claim from Mr and Mrs M even though it was entitled to do so as it had cancelled the policy.

Mr and Mrs M remained unhappy and asked us to look at their complaint. Our Investigator didn't recommend the complaint should be upheld. She thought AIEL had acted reasonably in cancelling the policy as photos from the Surveyor showed there had been building works carried out to the property.

Mr and Mrs M didn't agree. In summary they said we have discounted their complaint about

the destructive and unnecessary works carried out to their home.

The Investigator explained that the works AIEL had carried out were deemed necessary and in line with the policy when a claim is made.

Mr and Mrs M said they felt compelled to accept the decision to cancel the policy for the reasons given. But they said the floors were largely dry six days after the incident. They said the contractor was advised to remove the flooring so that AIEL would replace them. Mr and Mrs M said when the contractors visited a second time it was evidence AIEL hadn't communicated that it was intending to cancel the policy and not meet the claim. They do not agree the removal of all of the flooring was necessary for health and safety reasons.

I issued a provisional decision on 27 March 2023. I thought AIEL should have prevented further works being carryout by its contractors when it knew it intended to cancel the policy and not meet the claim. I intended to uphold the complaint and ask AIEL to meet the costs to replace the flooring its contractors removed during a second visit on either 17 or 18 October 2022 as by this date it had decided not to meet the claim. And I intended to ask AIEL to pay Mr and Mrs M £350 compensation for the distress and inconvenience caused.

In my provisional decision I said I would reconsider whether AIEL'S decision to cancel the policy was fair as it hadn't provided underwriting evidence to show it wouldn't have offered cover if it knew about the intended building works.

I haven't received a response from either party to my provisional decision. So the case has been passed back to me for a final decision - and I've reconsidered whether AIEL's decision to cancel the policy was fair in the absence of any evidence to support it.

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.

For ease I've set out the complaints under headings below.

AIEL's decision to cancel Mr and Mrs M's policy

Mr and Mrs M's policy with AIEL sets out changes they need to be aware of during the policy term. This isn't unusual as certain changes can affect the risk, the price, or both.

The policy says:

*“Changes in your circumstances we need to know about
You must tell us about any changes to the answers you gave us when taking out this policy and any changes in your circumstances which happen during the period of insurance.*

It is important that you tell us about a change before it happens or as soon as you know about it.

Here are some examples of changes that you must tell us about

*7. If you are having any building work done
You must tell us before the start of any building work, conversions, renovations, demolitions and extensions to your property.
You must tell us at least 30 days before it starts.”*

AIEL's policy says that when Mr and Mrs M tell it about a change it will let them know if it affects their insurance: and that this could mean cancelling their insurance. AIEL explained that if Mr and Mrs M didn't tell it about the changes, it won't pay their claim and it may result in the policy being cancelled.

So I think it was clear from the policy wording that it was for Mr and Mrs M to tell AIEL before buildings works began in order to check the policy still provided cover.

Photos provided by the Surveyor show the kitchen works that were carried out. I'm satisfied the works met the definition provided by AIEL under the policy.

So as Mr and Mrs M didn't tell AIEL before works began, I think they breached the terms of the policy.

AIEL says it wouldn't have offered cover if it had known about the building works. However, in order for an insurer to cancel a policy for this reason, it needs to provide underwriting evidence to this service to support its decision and show it has treated its customer fairly.

This information is commercially sensitive and so cannot be shared. But AIEL can share this with us so we can be satisfied its decision was reached in a fair way.

I haven't seen AIEL's underwriting criteria and I gave AIEL a further opportunity to provide this in response to my provisional decision. In my provisional decision I wrote;

"If I don't receive satisfactory evidence to show AIEL wouldn't have offered Mr and Mrs M cover if they'd told it about the forthcoming building works, I will have to consider if its decision to cancel the policy was fair and reasonable."

In the absence of supporting evidence from AIEL, and in line with my provisional decision, I consider it's decision to cancel the policy was unreasonable. Having to declare a cancellation of a policy by an insurer can have a significant impact on the choice of insurers available to a customer and the price they pay for future insurance. As AIEL hasn't shown its decision to cancel the policy was fair, AIEL should provide a letter to Mr and Mrs M confirming the cancellation was made in error and remove any cancellation marker it may have recorded. Mr and Mrs M can provide this letter to future insurers if needed. AIEL should ensure Mr and Mrs M receive a refund of any cancellation fee it applied and a pro rata refund for cover if they paid for the policy in full.

Removal works carried out by AIEL's appointed contractors

AIEL is relying on the following policy term to support why its contractors carried out the strip out works they did to the flooring in Mr and Mrs M's home:

1: Enter any buildings following loss or damage. We will always arrange this with you beforehand.

2: Carry out any work that is needed to reduce any further loss or damage and secure the site to prevent unauthorised entry, especially if the site may be of risk to health and safety.

5: arrange the rebuilding work, repairs or replacements, and dispose of any damaged items appropriately. We have the right to choose which contractors to instruct to carry out the work."

I've listened to key call recordings which we asked AIEL to provide. On 10 October 2022 an agent asked Mrs M if any renovation or building work was being carried out to the property. Mrs M said yes, and explained there was a kitchen extension - but that it hadn't been affected by the flood.

The agent didn't comment on Mrs M's reply and continued to explain how the claim would be progressed and settled.

So it's clear that AIEL were aware of a possible breach of its terms on 10 October 2022. This is the same day as the contractors made their first visit to Mr and Mrs M's home.

Timelines have been provided by Mr and Mrs M and AIEL. There are discrepancies in AIEL's timeline. AIEL says it issued a seven day cancellation letter on 18 October 2022. However, its copy letter is dated 17 October 2022.

A date and time stamped photo provided by Mr M shows a contractor's van full of flooring which Mr M says was removed from their property during a second visit. This photo is dated 18 October 2022. However, AIEL's timeline says the contractor carried out a second visit on 17 October 2022.

On 10 October 2022 the Surveyor reported high moisture content (MC) readings to the flooring in the lounge, dining room, games room and lounge.

However, according to the information provided by both parties, a second visit by contractors took place on either 17 or 18 October 2022 to remove the remaining flooring. Mr and Mrs M say that the floors were largely dry by this date due to the drying equipment installed from 6 October 2022. This was a week after the Surveyor took MC readings. So it's plausible that the floors were drier by the time of the second visit by contractors.

It's clear from the date of the cancellation notice that before 17 October 2022, AIEL was aware it intended to cancel the policy and not meet the claim. But the contractors attended Mr and Mrs M's home on either 17 or 18 October 2022 seemingly unaware of AIEL's decision. I think this is significant - as from the point AIEL decided it wasn't going to meet the claim and backdate the cancellation of the policy, it should have immediately halted its contractors from carrying out any further works.

The policy term it has relied on applies to where it will meet a claim - and includes rebuilding works, repairs and replacements. I don't think AIEL should have continued to apply the policy terms and continue with removal works when it had decided it wasn't going to meet the claim and carry out replacement or repair works. As soon as AIEL had made its decision to cancel the policy and not meet the claim, the decision as to how to deal with the damaged flooring was one for Mr and Mrs M to make. But on the same day as the cancellation notice was issued, contractors acting on behalf of AIEL were at their home and removed the remaining flooring.

I believe Mr and Mrs M's account that the contractors carried out works during both visits on the assumption their claim was being met. And so I'm not satisfied that it was reasonable for the contractors to have removed the remaining flooring on 17 or 18 October 2022.

So I don't think AIEL acted reasonably when dealing with Mr and Mrs M's claim. And I think its failure to stop further removal works from being carried out when it knew it wasn't going to meet the claim for replacement and repairs was unfair.

From the Surveyor's report dated 10 October 2022, the floors were described as 'soaking'.

When Mrs M spoke to AIEL on 10 October 2022, she described the floors as 'spongy'. So although Mr M says the floors were largely dry six days after the event, I don't think the contractors' decision to remove the dining room flooring on the first visit - 10 October 2022 - was unreasonable.

So I'm upholding Mr and Mrs M's complaint in part. I think AIEL should meet the costs to replace the remaining flooring that was removed during the contractor's second visit.

I think AIEL should pay Mr and Mrs M compensation of £350 for the distress and inconvenience it caused them. I've no doubt it was upsetting to have to deal with a heel injury from an exposed gripper bar after the contractors removed flooring. It's clear that Mr and Mrs M have been caused unnecessary disruption over and above the damage the flood caused as a result of AIEL's poor handling of the claim.

My final decision

My final decision is that I uphold this complaint. I require Accredited Insurance (Europe) Ltd to do the following:

- Meet the costs to replace the flooring its contractors removed during a second visit on either 17 or 18 October 2022 as by this date it had decided not to meet the claim.
- Pay Mr and Mrs M £350 compensation for the distress and inconvenience caused.
- Provide a letter to Mr and Mrs M confirming the policy was cancelled in error and remove any record of the cancellation.
- Provide a refund for any cancellation fee and a pro rata refund for cover if Mr and Mrs M paid for the policy in full. Accredited Insurance (Europe) Ltd should pay interest on any refund at a simple rate of 8% simple interest a year from the date of cancellation to the date of refund.

Accredited Insurance (Europe) Ltd must pay the compensation within 28 days of the date on which we tell it Mr and Mrs M accept my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

If Accredited Insurance (Europe) Ltd considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr and Mrs M how much it's taken off.

It should also give Mr and Mrs M a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

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

Geraldine Newbold
Ombudsman