

The complaint

Mr and Mrs B complain about the way AA Underwriting Insurance Company Limited (AA) has dealt with their claim under their home insurance policy.

What happened

In April 2022 Mr and Mrs B made a claim on their home insurance policy following a burst water pipe in their upstairs bathroom. This caused damage throughout the house.

AA accepted the claim. Mr and Mrs B appointed a loss assessor to deal with the claim on their behalf. They sent a copy of the loss assessor's instruction mandate to AA. AA replied giving information about how the claim would be handled following the appointment of a third party and reserving its right to communicate directly with Mr and Mrs B when necessary.

The loss assessor arranged for a contractor to attend and produce a schedule of works. Using this schedule, AA produced its own schedule at its own contractor's rates. In August 2022 AA offered a cash settlement to Mr and Mrs B so that they could arrange the remedial work themselves through their loss assessor.

The loss assessor rejected the settlement on behalf of Mr and Mrs B as it wasn't considered sufficient to return them to the position they were in before the incident. Mr and Mrs B then made a complaint to AA regarding the settlement and the fact that AA wasn't corresponding with their loss assessor as they had requested. They said they would like AA to carry out the work but that no arrangements had been made for AA's contractors to view the property and begin the work.

AA didn't uphold the complaint. It referred to the policy booklet and said that it had offered a cash settlement based on what it would have cost AA to carry out the repairs. It had been costed using their National Schedule of Rates. It said it had also offered to appoint its own contractors to carry out the work if Mr and Mrs B preferred – but only if they removed their loss assessor. AA said that it reserved the right to communicate with Mr and Mrs B directly rather than through their loss assessor if they felt it appropriate and that this had been explained from the outset.

Mr and Mrs B weren't happy with AA's response and brought their complaint to this service. Our investigator didn't think AA had acted unreasonably. He said that Mr and Mrs B were offered settlement options in August 2022 and that it was fair for AA to offer a cash settlement at the insurer's rates as stated in the policy. He also didn't think it unreasonable for AA to insist that Mr and Mrs B remove their loss assessor from the claim before it carries out any work.

Mr and Mrs B didn't agree and asked for an ombudsman's decision. They said they were keen for the works to progress and were happy for AA to use their contractors but wanted to retain their loss assessor to represent them. AA said this wasn't possible and so the matter has come to me for a decision.

My provisional decision

On 25 April 2023 I issued a provisional decision. I said:

“My starting point is to look at AA’s policy booklet. AA refer to the condition where it says “At our option we will: - repair or rebuild the damaged part using our suppliers; or - make a cash payment if you wish to use your own supplier. If we make a cash payment, we will only pay you what it would have cost us using our suppliers and therefore the amount you receive may be lower than the cost charged by your suppliers.”

I think it’s clear from this that AA can choose how to settle a claim but if a policyholder wants to use their own contractor AA will cash settle at its own contractor’s rates. I don’t think this is unreasonable. AA will have relationships with contractors whose costs are likely to be lower than those charged by a policyholder’s own contractor. If a policyholder chooses to use their own contractor, it wouldn’t be fair to expect the insurer to pay more than what it would have cost it to carry out the work itself. AA has used its National Schedule of Rates to value the works and I don’t think this is unfair.

As well as offering a cash settlement, AA also offered to carry out the works and Mr and Mrs B have now said they would like to take up this option. The loss assessor has asked AA to appoint a contractor to inspect the property and begin the work. However, AA say that it won’t do so unless Mr and Mrs B agree to remove their loss assessor. This seems to be the crux of the problem now and has led to the claim coming to a standstill.

The reason AA give for wanting the loss assessor removed is that it doesn’t think he is working in Mr and Mrs B’s best interests and that he is being obstructive. It believes that without the loss assessor the claim would have progressed more quickly. It also says that as the loss assessor’s fees are likely to be a percentage of any settlement figure, this could lead to the claim being inflated.

AA say that Mr and Mrs B have a choice. They either allow AA to manage the claim and it will appoint its contractors to carry out the repairs – or they accept a cash settlement and the loss assessor can manage the claim and appoint contractors to do the work.

I don’t think AA’s approach is fair. I understand AA’s concerns, but Mr and Mrs B are entitled to appoint a loss assessor to represent them if they wish. Whether he is working in their best interests or being obstructive is up to Mr and Mrs B – not AA. He is instructed by Mr and Mrs B and so it’s their decision whether to continue to employ him.

There have clearly been differences in opinion between AA and the loss assessor about certain aspects of the claim – but that’s not unusual as there are different interests at play. This complaint is not about the loss assessor’s behaviour, but whether AA’s refusal to carry out the work unless the loss assessor is removed is fair. I appreciate that if a loss assessor’s behaviour was so unreasonable it might become difficult for an insurer to work with them, but I haven’t seen anything that persuades me this is the case here.

Whilst I appreciate that the policy allows AA to choose how to settle, I don’t think it fair for it to insist on the removal of the loss assessor before it carries out the repairs. This would leave Mr and Mrs B with just a cash settlement which the policy says is only an option “if you wish to use your own suppliers” – and Mr and Mrs B have said they don’t.

In all the circumstances I don’t think AA have treated Mr and Mrs B fairly. In order to put things right, I intend to require AA to withdraw the requirement for Mr and Mrs B to remove their loss assessor before work can begin. I would encourage both parties to work together to conclude this claim now as swiftly as possible.

Mr and Mrs B also complain that AA have continued to communicate with them when they asked for communication to be through their loss assessor. In April 2022 Mr and Mrs B signed a mandate instructing the loss assessor to act for them – and asking him to arrange for all communications to be made through him. A copy of this was sent to AA.

AA responded by setting out how it dealt with mandates. It said that despite receiving a signed mandate it reserved the right to correspond with policyholders as it felt appropriate. So, I'm satisfied that AA set out its position to Mr and Mrs B in advance – and I'm not aware that they objected to this.

AA also say that the mandate doesn't require it to deal with a third party, but merely provides authority to do so. If the third party is acting unreasonably, it says it will communicate with the policyholder – as it says happened in this case.

I've read the mandate and I agree with AA that I don't think it requires AA to communicate only with the loss assessor. The mandate is actually an instruction to the loss assessor rather than an instruction to AA.

However, AA were aware that Mr and Mrs B would like correspondence to go through their loss assessor, and this was confirmed when they complained to AA. I don't think it fair for AA to simply ignore Mr and Mrs B's wishes – particularly as it had been informed by the loss assessor of a bereavement and that communication regarding the claim was causing additional distress.

It's not clear how much correspondence was sent directly to Mr and Mrs B. I can see that they were informed of the offer to settle and asked to confirm their wish to complain. I don't think this communication was unreasonable as I think it fair that Mr and Mrs B are asked to provide confirmation in both cases of their specific instructions. However, I understand that Mr and Mrs B were also sent copies of other letters sent to the loss assessor which I don't think was reasonable. I therefore intend to require AA to pay Mr and Mrs B £100 compensation for distress and inconvenience."

Response to my provisional decision

Mr and Mrs B accepted my provisional decision. AA replied but didn't add any further comment.

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.

Given neither party has provided any new information, I see no reason to change what I said in my provisional decision. My final decision is that I uphold the complaint for the reasons given in my provisional decision.

My final decision

I uphold this complaint and require AA Underwriting Insurance Company Limited to:

- withdraw the requirement for Mr and Mrs B to remove their loss assessor before carrying out repairs;
- proceed to deal with the claim under the terms and conditions of the policy; and

- pay Mr and Mrs B £100 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 8 June 2023.

Elizabeth Middleton
Ombudsman