

The complaint

Mr M and Mrs M complain about how Lloyds Bank General Insurance Limited (Lloyds) handled a claim under their home insurance policy for damage to their property from a slow leak.

Lloyds use agents to administer the policy and to assess claims. Reference to Lloyds includes these agents.

This decision relates to the complaint to this service by Mr M and Mrs M in January 2023, following their complaint to Lloyds in August 2022 and Lloyds' final response in September 2022. It doesn't cover an issue about cavity wall insulation at their property, which wasn't included in either complaint or in Lloyds' final response. Lloyds considered the issue and issued a separate final response in July 2023. Should Mr M and Mrs M not accept Lloyds' final response, they would need to raise any concerns in a further complaint to this service.

What happened

The details of what happened in this case are well known to Mr M and Mrs M and Lloyds. So, I won't repeat the full sequence of events and what happened, just a summary.

In July 2020, Mr M and Mrs M were doing some decoration work at their property. This involved moving a bookcase from against a wall, which revealed some plaster behind had fallen off. They contacted Lloyds to report the damage. Lloyds sent a leak technician, who discovered a slow leak behind kitchen units, causing damage to the kitchen, dining room and lounge. The technician also removed laminate flooring and floor tiles to be tested for the presence of asbestos. Because of this, Mr M and Mrs M would need to move out of the property while any asbestos was removed, the kitchen stripped, and the walls dried out. Because of the likely extent of the damage, Lloyds also appointed a loss adjuster to assess the damage and the claim.

Mr M and Mrs M moved into temporary accommodation in October 2020 while the stripping out and drying took place (scheduled for completion in December 2020). Reinstatement work then began in February 2021, with Mr M and Mrs M moving back into their property in April 2021. However, there were issues with the property, with a 'snagging list' of outstanding issues. Damp then began to re-emerge on walls and the building contractors returned to complete the work (October 2021). Further inspection indicated issues with the original damp proofing having been removed, but no replacement included in the reinstatement. The water table beneath the property was identified as the issue causing the damp.

Unhappy at the length of time taken for the work to be carried out, and the problems with the completed work, Mr M and Mrs M complained to Lloyds (August 2022).

In their final response (September 2022) Lloyds upheld the complaint, accepting there had been service failings in the handling of the claim and the reinstatement work. They acknowledged several visits had been made to Mr M and Mrs M's property early in 2022, indicating issues with the water table causing damp in the property. Lloyds said they would visit the property to investigate the problems experienced by Mr M and Mrs M, including the

damp proof membrane (not being reinstated) and the screed used (and whether it would be sufficient). In recognition of the failings, Lloyds apologised and awarded £300 compensation.

However, further issues arose with damp at the property and a specialist report (C) in October 2022 concluded the way the reinstatement work had been carried out left the property susceptible to damp. Mr M and Mrs M then complained to this service. They wanted their property reinstated so the issues with damp wouldn't recur.

Our investigator upheld the complaint, concluding Lloyds should cover the cost of the further reinstatement work required to fix the damp issue (as identified in the independent expert's report). On the issue of compensation, given the length of time the work had taken and the considerable trouble and upset caused to Mr M and Mrs M, the investigator thought Lloyds should increase their offer to £750.

Mr M and Mrs M disagreed with the investigator's view and requested an ombudsman review the complaint. They thought the length of time the claim and reinstatement work had taken (and the outstanding issues) meant a higher amount of compensation would be fair to reflect the distress and inconvenience they'd suffered.

Lloyds responded to accept the investigator's view they should rectify the issues with the property damp proofing and agreed to £750 compensation for distress and inconvenience.

In my findings, I agreed with the investigator's view Lloyds should cover the cost of the reinstatement work to fix the damp issues (as identified in the independent expert's report). But on the issue of compensation, taking all the circumstances of the case into account, I thought a higher figure would be appropriate. I concluded £1,000 would be fair.

Because I reached a different conclusion on compensation, I issued a provisional decision to give both parties the opportunity to consider matters further. This is set out below.

What I've provisionally decided – and why

I've considered the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'd first want to say I've considered very carefully everything Mr M and Mrs M have told us about what's happened (including their detailed timeline of events) and the impact on them and their family. Over three years have elapsed from when the original leak was detected in July 2020 and the issues have yet to be fully resolved. A leak causing the damage it did to their property, together with the consequent disruption (including that from the presence of asbestos and the necessary stripping, drying and reinstatement work) will always have a significant impact. I've borne this in mind when deciding, as is my role, whether Lloyds have acted fairly towards Mr M and Mrs M.

Looking at the complaint and what happened, the two key issues I've considered are, firstly, the continuing issues with damp at the property and, secondly, the impact on Mr M and Mrs M over the period involved. It's clear there were significant shortcomings in the way the claim was handled, including the reinstatement work needed to make good the damage. Lloyds' final response acknowledges the service failings on their part (and those of their contractors) so I won't repeat them here.

On the issue of the damp at the property, which re-emerged in late 2021 following the initial reinstatement work, having looked at the various information and evidence, including specialist reports, it seems the issue has arisen because the original damp proofing at the property was removed as part of the reinstatement work and wasn't replaced (or wasn't

replaced effectively). The key report is that from C in October 2022. Looking at the key findings and conclusions from the report, the following are particularly relevant:

“The asphalt floor screed has been removed and the remaining solid floor has not been continued to the wall intersections with large gaps present in various locations. This is resulting in moisture below where the asphalt was being able to evaporate at the wall intersections, behind the skirting boards which is leading to localised dampness in the plaster.”

“From a purely visual inspection of the upper surface, the existing solid floor construction would not appear to meet modern building standards and is unlikely to incorporate an effective damp proof membrane (DPM).

High moisture readings were also present to the top surface of the solid floor which would also indicate that there is insufficient protection from dampness rising through the floor slab.

The absence of an effective DPM correctly finished at wall/floor intersections is likely to result in ground moisture permeating through the floor construction creating a damp environment. Adjacent timbers must also be considered at risk from fungal decay.

The defects noted from our inspection above will or are likely to allow moisture to be transmitted into the building fabric.

Not only is this likely to spoil and damage internal finishes and decorations, but it will also put timbers within the property at serious risk from fungal decay and damage the building fabric itself.”

The report goes on to make recommendations for the work needed to rectify the defects identified. I've seen no evidence to contradict these findings and conclusions and Lloyds have accepted the issues with the damp proofing need to be rectified.

Given this, I've concluded Lloyds should cover the cost of the rectification work necessary to fix the identified issues with damp proofing at the property, based on the recommendations set out in the independent expert's report referenced above.

The second issue in Mr M and Mrs M's complaint is the level of compensation that would be fair and reasonable, given the shortcomings in the handling of the claim and the reinstatement work.

I've considered this issue carefully in the context of the circumstances of the case. From the timeline of events, I think the initial reinstatement work took longer than it should in the circumstances. And the subsequent re-emergence of damp at the property indicates (as I've concluded above) the reinstatement work wasn't carried out to a satisfactory standard, meaning further issues requiring rectification. And those issues (the damp problems) are not yet resolved. So, the reinstatement work both took longer than I think it should and wasn't carried out properly.

Which in turn has led to further delays and substantial distress and inconvenience for Mr M and Mrs M, extending to what is now over three years from the date of the original leak.

I've considered this in the context of the approach we take when considering and awarding compensation for distress and inconvenience. I've concluded Lloyds' actions (including those of their contractors) have caused Mr M and Mrs M substantial distress, worry and

upset. And there has been significant disruption to them (and their family) over a sustained period. Lloyds have accepted £750 would be fair and reasonable compensation. But considering all the circumstances of the case, I think a higher sum would be appropriate. Having thought about this, I think £1,000 would be fair and reasonable (less any compensation they may already have paid).

My provisional decision

For the reasons set out above, it's my provisional decision to uphold Mr M and Mrs M's complaint. I intend to require Lloyds Bank General Insurance Limited to:

- *Cover the cost of the rectification work necessary to fix the identified issues with damp proofing at the property, based on the recommendations set out in the independent expert's report referenced above.*
- *Pay Mr M and Mrs M £1,000 in compensation for distress and inconvenience (less any compensation they may already have paid).*

Lloyds Bank General Insurance Limited must pay the compensation within 28 days of the date on which we tell them Mr M and Mrs M accept 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.

Mr M and Mrs M responded to accept the provisional decision, although they thought the proposed level of compensation was low, given they would need to move out of their property again while the rectification work was carried out.

Mr M and Mrs M also asked for clarification on several points. Our investigator responded to these points, so they aren't included in this decision.

Lloyds responded to accept my provisional decision.

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 Lloyds have acted fairly towards Mr M and Mrs M.

On the point about the level of compensation raised by Mr M and Mrs M, my role is to consider the circumstances of the complaint and what happened up to the point of Lloyds' response to Mr M and Mrs M's complaint. It isn't to consider what may happen in the future, as that is uncertain. In this case, I can't anticipate whether Mr M and Mrs M will need to move out of the property, and if so, for how long. Should that be necessary, then I'd expect Lloyds to act in line with the policy terms and conditions as they would in any similar situation, for example regarding alternative accommodation. So, this isn't something I would take into account when considering what would be fair and reasonable compensation. Together with Lloyds accepting my provisional decision, then my final decision remains unchanged from my provisional decision.

My final decision

For the reasons set out above, it's my final decision to uphold Mr M and Mrs M's complaint. I require Lloyds Bank General Insurance Limited to:

- Cover the cost of the rectification work necessary to fix the identified issues with damp proofing at the property, based on the recommendations set out in the independent expert's report referenced above.
- Pay Mr M and Mrs M £1,000 in compensation for distress and inconvenience (less any compensation they may already have paid).

Lloyds Bank General Insurance Limited must pay the compensation within 28 days of the date on which we tell them Mr M and Mrs M accept 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 M and Mrs M to accept or reject my decision before 21 September 2023.

Paul King
Ombudsman