

## **The complaint**

Mrs B complains about Advantage Insurance Company Limited (Advantage) declining a claim under her home insurance policy for damage to her property.

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

## **What happened**

The events in this case are well known to Mrs B and Advantage, so the following is a summary of what happened. In reaching my decision, I've considered the full sequence of events.

In November 2022 Mrs B had a problem with a blocked toilet at her property. She contacted Advantage to tell them about the blockage and lodge a claim. Advantage appointed a firm (M) to assess the claim and a drainage company (L) visited the property in December 2022 to identify the cause of the blockage and assess the damage. But Advantage didn't approve the repair work (which involved excavation of a kitchen floor) to start until January 2023.

Advantage subsequently contacted Mrs B in February 2023 to say they wouldn't be liable for the initial repair costs of £523.99 as they deemed the cause of the blockage to be wear and tear (which wouldn't be covered under the policy). Mrs B would have to pay the cost (as well as the policy excess of £200) before any further repair work would be carried out, which included excavation of the affected area.

Mrs B moved into alternative accommodation in March 2023, pending the start of repair work. At the same time, furniture and the kitchen were removed to enable the work to begin. However, when the contractors arrived to begin the excavation, they couldn't start as they realised the water and mains gas supply were where the work was needed, so the supply needed to be turned off. This led to a further delay as Advantage couldn't source a plumber, with Mrs B having to source one. Mrs B had to pay the plumber as Advantage cited the same wear and tear exclusion to say the cost wouldn't be covered under the policy.

In April 2023 Advantage told Mrs B the work wouldn't progress as damage had been caused to the mains water pipe and waste pipe, so she'd need to contact the local water company. However the water company said it wasn't their responsibility (as the pipes were within the property boundary) which caused further delay in the work starting (May 2023).

However, contractors sent to carry out the work caused subsequent damage and two holes weren't filled, causing further damage. A plumber returned to the property at the end of May and discovered a further leak caused by the original repairs being faulty (putty had been used, which subsequently failed).

Mrs B's alternative accommodation was up at the end of May 2023 and offered an unsuitable alternative by Advantage. She found alternative accommodation, but Advantage wouldn't approve it, so she moved back into her property despite the repair work being ongoing. The property was damp and without kitchen facilities. The repair works were

completed in June 2023 (reinstallation of the kitchen and flooring, furniture returned) and redecoration finished in July 2023.

Unhappy at the delays from the time she told Advantage about the leak, Mrs B complained in March 2023. Advantage acknowledged the complaint but didn't provide a final response within the eight week period a business has to consider consumer complaints. But they did (after Mrs B complained to this Service) say the claim was complex but accepted there were small delays in carrying out the repair work and a lack of proactivity from their contractors. They offered Mrs B £750 compensation for the delays in assessing her claim and the repair work being carried out. Mrs B rejected the offer.

In her complaint to this Service, Mrs B said she'd had to pay for the initial repairs but didn't see how it would be deemed to be wear and tear without excavation work. She was also unhappy at the various delays to the repair work being carried out, with no clear resolution in sight. She'd had to chase Advantage and make many phone calls and emails to establish what was happening with her claim and the repair work. She'd been affected by the delays in the repair work being carried out and the lack of communication from Hastings. Her property had been empty since the start of March 2023 and become infested with flies and was damp (as no heating had been on). Uncertainty about whether alternative accommodation would be extended had also been very stressful for her. She didn't think she should have paid over £1,000 in total for repair work and she wanted her kitchen and lounge decorated and flooring replaced. She also wanted compensation for the stress and inconvenience she'd suffered.

Our investigator upheld the complaint, concluding Advantage hadn't acted fairly. She thought the repair work should have been approved to start sooner. The work was further delayed because of issues with the water supply. When work started, further damage was caused by the contractors and by faulty original repairs to fix the leak. Mrs B also had to source her own alternative accommodation, which Advantage wouldn't approve, so she had to move back into her property repair work was still ongoing, until the work was completed in July 2023. The investigator also thought there was a lack of communication with Mrs B. And Advantage hadn't showed the damage was due to wear and tear, so had unfairly declined the claim.

To put things right, the investigator thought Advantage should review the claim in line with the remaining terms and conditions of the policy, and if accepted pay interest on the amount settled. They should also pay Mrs B £1,000 compensation for the distress and inconvenience she'd suffered.

As Advantage didn't respond to our investigator's view by the date requested, the complaint has been passed to me to review.

### **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 Advantage has acted fairly towards Mrs B. In doing so, I've considered the information and evidence available, principally that provided by Mrs B. As Advantage haven't provided their case file or other evidence or information, despite being asked to do so several times, I've considered the complaint under the relevant guidance. This is set out in DISP 3.5.14, which states that should a respondent (Advantage in this case) fail to comply (respond) to a request for information in relation to a complaint, this Service (the Ombudsman) can proceed to consider the complaint based on the available evidence and make an award for any distress or inconvenience caused.

In considering Mrs B's complaint, I've looked at all the evidence and information provided, but I think there are three main issues. First, the various issues and delays in assessing the claim and the damage and then in carrying out the necessary repair work. Second, Mrs B being asked to pay for elements of work that Advantage say wouldn't be covered under the policy because they were due to wear and tear. And thirdly, the lack of communication from Advantage (and their agents and contractors) about her claim and the repair work.

On the first issue, looking at the timeline of events, from the initial notification by Mrs B of the leak (November 2022) to the final completion of the repair and redecoration work (July 2023) took some eight months. Advantage say there were small delays, but I'm not persuaded the delays were either small or unavoidable. While M were appointed when the claim was lodged and L attended in mid-December 2022, Advantage didn't confirm the works were approved until late January 2023.

The work wasn't then scheduled to start until late March. When the contractors arrived, they weren't able to begin excavation because of the presence of water and mains gas in the area to be excavated. It's not clear why this wasn't known before the contractors arrived, but it meant further delay to the work, not starting until mid-April. There were further delays to do with the main water pipe and determining that it wasn't the responsibility of the local water company (as the pipe was within the property boundary). The local water company confirmed they weren't responsible at the start of May, which meant a further delay to the start of the work to late May.

There were also issues with the quality of the original repairs, where putty was used that subsequently failed. I've seen a video provided by Mrs B where the plumber demonstrates the issue and the failure. And the issues over alternative accommodation meant Mrs B moving back into her property while the work was ongoing, until finally being completed in July 2023.

Takin all these points together, I've concluded there were avoidable delays in assessing the claim and carrying out the necessary repair work, meaning the reinstatement of her property took longer than it should have done. Together with what Mrs B has told us about the impact of this on her, it would have caused her considerable distress and inconvenience. I'll consider this further when thinking about how Advantage should put things right.

On the second issue, without Advantage having provided any evidence or information to support their decline of that element of claim relating to the repair costs (£523.99) I've considered the evidence and information available on the circumstances of the leak and its probable cause. Advantage say it was due to wear and tear. Mrs B doesn't agree, saying it isn't possible to come to that conclusion without carrying out the subsequent excavation work. And from what I've seen, the indications are the waste pipe was damaged because of the way a main water pipe had been installed – not wear and tear.

I've also had regard to the general principle that, where an insurer relies on a policy exclusion (in this case for wear and tear) then the onus is on them to show the exclusion applies. As Advantage haven't provided any evidence or information to support the application of the exclusion, than I've concluded they haven't acted fairly and reasonably to apply the exclusion.

From what I've seen, Advantage also declined to cover the cost of Mrs B engaging a plumber to turn off the mains water and gas supply do repair work could begin. And further investigation indicated a problem with a pipe bend. Again, it appears Advantage haven't accepted liability for this cost, on the same grounds of wear and tear. But, in the absence of any evidence or information to support their exclusion of the exclusion, I've concluded they haven't acted fairly or reasonably to decline this further cost which Mrs B has incurred.

On the third issue, communication with Mrs B, she's told us about the extent of chasing she has had to do to establish the position with her claim and the repair work. In the absence of any claim or case notes from Advantage, I can't fully establish a complete timeline and record of contacts between Mrs B and Advantage (including their agents). But Advantage acknowledge in their response that they (their agents and contractors) haven't been proactive in keeping Mrs B updated about the assessment of the claim and progress with the repair work. Based on this, I've concluded Advantage haven't acted fairly and reasonably in how they've communicated and engaged with Mrs B.

Having reached these conclusions, I've thought about what Advantage should do to put things right. As I've concluded they haven't acted fairly to decline the elements of cost (which Mrs B has had to pay for) on the grounds of wear and tear, then they should reassess the relevant costs in accordance with the remaining terms and conditions of the policy. If they accept and settle these costs, they should also pay interest, at a rate of 8% simple, on the amounts settled from the date Mrs B paid the costs to the date they reimburse the costs.

I've also thought about the question of compensation for the distress and inconvenience caused to Mrs B from, in particular, the avoidable delays in assessing the claim and carrying out the repair work and the lack of communication and engagement with her during the process. I've also taken account of what Mrs B has said about the stress caused to her by uncertainties over alternative accommodation arrangements, including her having to move back into her property before the repair and redecoration work was completed.

From what I've seen, Mrs B has suffered substantial distress, upset and worry with serious disruption over a sustained period of many months. Considering all the circumstances of the case, I've concluded £1,000 for distress and inconvenience would be fair and reasonable.

### **My final decision**

For the reasons set out above, it's my final decision that I uphold Mrs B's complaint. I require Advantage Insurance Company Limited to:

- Reassess the relevant costs Mrs B has incurred in accordance with the remaining terms and conditions of the policy. If they accept and settle these costs, they should also pay interest, at a rate of 8% simple, on the amounts settled from the date Mrs B paid the costs to the date they reimburse the costs.
- Pay Mrs B £1,000 in compensation for distress and inconvenience.

Advantage Insurance Company Limited must pay the compensation within 28 days of the date on which we tell them Mrs B 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.

If Advantage Insurance Company Limited considers that they're required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs B how much they've taken off. They should also give Mrs B a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 15 November 2023.

Paul King  
**Ombudsman**