

The complaint

Mr S and Miss D complain that Advantage Insurance Company Limited (Advantage) declined a claim for storm damage to their property and cancelled their buildings insurance policy due to fraud.

I'll refer to Miss D in my decision for ease.

What happened

In January 2023 Miss D noticed some damp staining on a chimney breast in her home. She thought this must've resulted from a recent storm and made a claim to Advantage. Damage was also caused to Miss D's front porch. She initially said this had happened during the same storm. But later advised it had happened a week earlier. Miss D says she made a mistake when communicating this information.

Miss D says the communication from Advantage was poor. She didn't receive a call back as requested. An inspection took place at her property in March 2023. She was subsequently told the damage to the roof wasn't covered under her policy, as it was due to a gradual cause. The porch had been replaced by the time of the inspection. Advantage told Miss D there was no proof of a valid claim as a result.

Advantage subsequently advised it was cancelling Miss D's policy for fraud. This is because she told it the porch and water ingress via the chimney took place at the same time. However, the evidence showed she had bought a replacement porch the week before this happened.

Miss D complained to Advantage. It acknowledged poor communication on its part and offered £30 compensation. It offered a further £50 in a subsequent response due to a lack of explanation for its decline decision. However, it didn't change its decision to decline the claim or its decision to cancel the policy. Miss D thought this was unfair and referred the matter to our service.

Our investigator partially upheld Miss D's complaint. She says Advantage was told the porch was damaged at the same time the internal water ingress occurred. But this was because Miss D had misremembered. Our investigator acknowledged Miss D's reference to suffering from mental health issues and confusion, by way of an explanation. She says this was disclosed to Advantage prior to it cancelling her policy.

Based on this evidence our investigator didn't think Miss D had made a fraudulent claim. But rather she'd become confused about when the porch was damaged.

Based on Advantage's inspection, our investigator didn't think any of the damage claimed for was covered under its policy terms. But she didn't think it had treated Miss D fairly in cancelling her policy. She says it should remove any record of the cancellation relating to fraud and waive the cancellation fee. In addition, our investigator says Advantage should pay £100 compensation for the distress and inconvenience it caused Miss D. This was on top of the payment it had offered.

Advantage didn't accept this outcome. It says Miss D knew she'd ordered a replacement porch a week before making her claim. It says she acknowledged the porch damage had occurred a week earlier in the email she sent in April 2023. It says Miss D could potentially have benefitted from this by only paying one policy excess instead of two. And by linking this damage to the storm claim, when it was already present. As it disagreed with our investigator's view Advantage asked for an ombudsman to consider the matter.

It has been passed to me to decide.

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.

Having done so I'm upholding this complaint in part. Let me explain.

The records provided by Advantage show the damage caused by water ingress via the chimney was reported by Miss D on 12 January 2023. The business says there was no mention of a damaged porch.

In her email to Advantage on 21 April 2023 Miss D says:

"To put the record straight (purely for the ombudsman as we expect nothing from your firm except whatever is in your best interest), the porch was noticed around a week before the chimney and [Mr S] reached out for quotes to get the work done outside of using our insurance to save our premiums going up. After noticing the damp marks on the chimney [Mr S] asked me to call [Advantage] to query if this would be covered on our insurance, which I did and asked for documents. We then noticed that the porch and the place above our door was becoming more damaged and that's why it was included in the claim as it was apparent from him that two lots of water damage, at opposite sides of the house, must have been because of the same storm event, when you guys are claiming it's bad maintenance and a coincidence."

Miss D says the porch damage was noticed first - prior to the chimney damage. However, she told Advantage the damage occurred during the same storm. I asked Advantage for call recordings from when the claim was first made, and from 19 April 2023 when the circumstances of the porch damage were discussed. It provided a call from 12 January. This was between Miss D and her insurance broker.

In the call Miss D explains that she had noticed damp marks on the chimney breast in her bedroom. She didn't know what the process was to make a claim, and says she'd experienced difficulty finding information online regarding her policy. The agent she spoke to says Advantage can be difficult to get hold of. He says he will contact the business on Miss D's behalf and arrange for it to call her. Miss D agrees to this and thanks the agent. The call then ends.

Advantage hasn't provided the call recording when it rang Miss D back about her claim. It hasn't provided the call recording from 19 April 2023 either. In its response it says it has attached the call it was able to find. Presumably the other calls aren't available to it. This is disappointing. It would've been helpful to listen to these calls to get a clearer understanding of what was discussed.

Miss D says she told the surveyor about the damage to the porch when he inspected her property in March 2023. It was after this time that Advantage queried when the damage had occurred. Miss D then provided the order information for her new porch canopy which was

dated 5 January. This was a week prior to the date she made a claim for the chimney damage.

I think it's reasonable that Advantage had concerns about the information Miss D provided about her claim. She didn't mention the porch damage initially. She then asked for the porch to be included in the same storm claim as the chimney damage. But the evidence shows Miss D was aware of the damaged porch around a week prior to making the chimney claim. The implication being it wasn't the same storm event that caused the damage.

In her email to Advantage in April 2023 and in a further email dated in early May, Miss D says there were several storms throughout December 2022 and January 2023. She says her policy terms don't require the damage she is claiming to be caused by one storm event. She says misremembering isn't a crime, and she was overwhelmed at the time this all happened.

In her April 2023 email, Miss D explains that she suffers from mental health issues and confusion. I note her comment that she remembers the storms and the damage occurring in early January. In her later email in May, Miss D says that when she spoke to a male agent from Advantage, he told her, "*clump it into the same claim as it happened [sic] the same time*". I have no reason to disbelieve Miss D's recollection of what Advantage's agent told her. Albeit I haven't been provided with a record of this call.

All insurer's expect the information a customer provides to be accurate. I think it's clear the date Miss D gave for the porch damage wasn't accurate. But I also acknowledge what she says about misremembering as opposed to deliberately providing false information. I've looked at Miss D's policy terms to see how Advantage defines fraud. The terms say:

"You must not act in a fraudulent manner. If you, or anyone acting for you:

- Knowingly provide information to us that is not true*
- Deliberately mislead your insurer or us in any way in order to get Insurance from us, obtain more favourable terms or reduce your premium, or gain an improper advantage from a claim*
- Make a claim under the policy knowing it to be false or fraudulently exaggerated in any respect*
- Submit a document in support of a policy or claim knowing the document to be forged or false in any respect*
- Make a claim for any loss or damage caused by your willful act or with your knowledge.*

Then, depending on circumstances:

- Your insurer may be entitled to refuse to pay the claim to which the alleged fraud or falsehood relates. They may also be entitled to cancel or avoid the policy without refunding your premium."*

The terms make clear that Miss D must not knowingly provide untrue information, or deliberately mislead in order to gain an improper advantage from a claim. I've thought about what this means with respect to Advantage cancelling her policy.

Advantage suggests that Miss D could look to gain an advantage by avoiding paying two excess fees, by combining the porch damage with the chimney claim. But I'm not persuaded by this evidence, and in these circumstances, that Miss D was trying to do this.

The claim wasn't handled well by Advantage. Miss D wasn't called back as requested, and she had difficulty accessing documents via her online account due to an issue with Advantage's systems. Miss D refers to continuously chasing to try and get the damage

assessed, which took around seven weeks. She was also worried about the additional damage that could be caused which is why she had the porch repairs completed. I think the poor handling of this claim likely contributed to Miss D's confusion.

Miss D says she hadn't made a claim before and isn't knowledgeable about how this works. Based on what I've seen I'm not persuaded that Advantage has done enough to demonstrate Miss D deliberately provided inaccurate information when making a claim about her porch. I'm more persuaded that this was a genuine mistake when reporting the damage. I'm also mindful of the contributing factor Miss D's mental health issue may have had here.

For Advantage to fairly cancel Miss D's policy for reasons of fraud, I need to be persuaded that it's more likely than not that she committed or intended to commit fraud. For the reasons discussed here I'm not persuaded that she did. So, I don't think Advantage treated her fairly when cancelling her policy for this reason. To put this right it should remove all record of the fraud cancellation.

Claim

As our investigator explained, we consider three questions when assessing whether an insurer behaved fairly with respect to a storm claim. These are:

- 1) Were there storm conditions around the time the claim was raised?
- 2) Is the damage consistent with damage a storm could cause?
- 3) Was the storm the underlying cause of the damage?

Advantage says it checked the weather data between 11 and 12 January 2023. It found no evidence of storm conditions. It refers to its policy terms that define the following criteria for storm conditions:

"A period of violent weather defined as: wind speeds with gusts of at least 48 knots (55 mph, equivalent to storm force 10 on the internationally recognised Beaufort Scale), or torrential rainfall at a rate of at least 25mm per hour, snow to a depth of at least one foot (30cm) in 24 hours or hail of such intensity that it causes damage to hard surfaces or breaks glass."

I've checked the weather data from a weather station close to Miss D's home around the time she says the storm conditions occurred. I can't see evidence of storm conditions on or around 12 January 2023. So, the answer to question one is no. Miss D refers to several storms that occurred during the winter. It's not clear when the storms she mentioned took place, or if they qualify as storm force. But for completeness I've considered whether the other two questions could apply assuming another storm was responsible for the damage claimed.

Rainwater ingress is something that is consistent with damage a storm can cause. So, I accept that the answer to question two is yes. For question three I need to be satisfied that the storm was the underlying or main cause of the damage. But I don't think it was here.

Advantage's surveyor reported the following:

"..there was no storm damage visible to roof area, no missing tiles or slipped tiles. Chimney is of age and pointing is missing between bricks, Chimney has discoloured due to Moss Growth. When inside the attic we could water stains on breast wall which are of age and not from a one off event, Please be advised we believe this to be a maintenance issue on the chimney Breast itself. In regard to the porch seeing, as this was replaced this prior to the visit, we cannot comment."

Miss D had replaced the damaged porch, so it wasn't possible for Advantage to assess whether this was covered under its policy. I think it's fair that it declined cover for this reason.

The internal damp was thought to be the result of a gradual cause. Under the section entitled "*Part 1 - Useful Information*" Miss D's policy terms say:

"Your policy doesn't cover claims arising just from wear and tear or gradual causes. It's your responsibility to keep your buildings and contents in a good condition."

Based on this evidence I don't think it was unreasonable for Advantage rely on its policy terms to decline Miss D's claim for the reason it gave.

Finally, I've thought about the impact the poor standard of service had on Miss D. There were delays and a lack of communication. Advantage acknowledges this in its complaint responses. It offered £80 in total to compensate for this. But in these circumstances I think a higher payment is justified.

I can understand why Advantage was concerned about discrepancies with the information Miss D provided. But I don't think it's shown that its decision to cancel her policy was fair. This has been distressing for Miss D. The standard of communication and claim handling could also have been better. Because of this I think Advantage should pay a further £100 compensation on top of the £80 it originally offered.

Advantage confirms it didn't charge a cancellation fee and a premium refund was provided. It also says it hasn't recorded the circumstances of its fraud cancellation on any external databases. However, it should ensure its own records are updated to remove any reference to this and confirm this in writing. If Miss D has paid higher insurance premiums as a result of declaring the fraud cancellation, she can speak to her insurers to arrange any refund that might be due.

In summary I don't think Advantage treated Miss D fairly when cancelled her policy on the grounds of fraud. It should now amend its records accordingly. It should also pay Miss D £100 in addition to the £80 compensation it originally offered. But I don't think it treated Miss D unfairly when declining to cover her claim for the reasons it gave.

My final decision

My final decision is that I uphold this complaint in part. Advantage Insurance Company Limited should:

- pay Mr S and Miss D £100 compensation in addition to the £80 it offered for the distress and inconvenience it caused; and
- write to Mr S and Miss D to confirm all record of the fraud cancellation has been removed.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Miss D to accept or reject my decision before 24 October 2023.

Mike Waldron
Ombudsman