

The complaint

Mr L complains that Ageas Insurance Limited have declined his claim for damage to his staircase, walls, floor, and carpet caused by an accidental paint spillage.

What happened

Mr L has household buildings and contents insurance with Ageas. In September 2022 he contacted them to make a claim for damage caused after a tub of paint was dropped on his staircase.

Mr L told Ageas that his son was coming downstairs carrying a tub of paint. He slipped, dropping the paint tub which hit his knee and then fell down the stairs spraying paint over the surrounding area. There was damage to the stair carpet, spindles of the staircase, the flooring in the hall and the wallpaper in the hall and up the stairs. Some paint also splashed into his dining room/office causing damage to one wall and the door.

Mr L has told us that his wife was able to clean the spilt paint off the laminate flooring in the hall, where a pool of paint had collected. He says they tried to clean the walls, but the day after the incident they were stained. They'd also tried to clean the paint off the spindles and stair carpet, but there was paint they couldn't remove.

He reported the incident to Ageas in late September 2022. They sent out two assessors on 8 October 2022. One to assess the damage to his carpet, and the other to assess the walls, floor, and staircase.

Mr L's claim was declined by Ageas as they said there were inconsistencies between what he'd reported had happened, and the damage the assessors found.

In declining Mr L's claim Ageas relied on a desktop forensic report prepared by an expert they instructed. The writer of the report spoke to Mr L, his wife, and his son, before preparing their report and considered photographs provided by Ageas. But they didn't visit Mr L's property to view the damage themselves.

The report says that the assessors who attended Mr L's property were concerned that the pattern of the reported damage didn't match the account he'd provided.

The account provided during the telephone conversation the expert had with Mr L appears to be consistent with what Mr L reported to Ageas, with a bit more detail. He said the paint tub had been about a quarter full before the incident, with the brush his son had been using inside the tub and the lid was on. The paint tub ended up at the bottom of the stairs empty, and the photographs show the paint damage concentrated on the bottom three steps of the staircase. There was also paint on the laminate flooring in the hall, which Mr L and his wife were able to clean up. This was done before the photographs were taken.

The report assumes that as the paint tub fell downstairs it travelled in the direction shown by the green arrow in Figure 6. And says that if the drop happened as Mr L has said they'd expect to see more damage on the top of the bottom step, and it's unusual that there are

less stains on the bottom step.

The report also says that it's difficult to explain how the paint damaged the spindles on the left of the stairs and the bottom edge of the wall shown in Figure 2, as there's no paint in the centre of the stairs or between the first section of stains and those at the bottom. The report writer says she wouldn't expect damage to be seen on either side of the staircase, and then at the bottom of the stairs.

Looking at the stains in the room to the right of the stairs, the report says the direction of the paint, shown by the green arrow in Figure 6, would have to turn 90 degrees to be able to travel in and onto the door to the right when looking down the stairs, which is impossible. And to cause the splash/dots seen into that room let alone the splash on a door and go through a gap where the hinges are, damage would be expected on the bottom of the door frame or door on the side of the hinges which aren't seen in Figure 6.

So the report concluded that the areas of damage reported by Mr L couldn't be reconciled with the account of the incident provided by Mr L and his family, so the claim couldn't be verified as they couldn't rule out that the incident had been exaggerated or staged to obtain the benefit of the policy.

Mr L wasn't happy that his claim had been declined or about the delay in dealing with his claim and providing him with updates. So he raised a complaint on 13 January 2023. His complaint was acknowledged by Ageas on 19 January 2023.

Ageas wrote to Mr L on 1 February 2023 following receipt of their expert's report. They set out their expert's findings and said that in her opinion the damage he'd reported wasn't caused by one event, as the amount of and location of the damage was inconsistent with the version of events he'd given. And it appeared impossible that some of the damage had been caused by the incident he'd described. They didn't send Mr L a copy of the expert's report.

In their letter Ageas said that they weren't able to validate Mr L's claim based on the information he provided. And they asked him to provide information to address their concerns and any evidence which might change their position within 21 days. They reminded him of his obligation under the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) to take care and provide accurate answers to all questions.

Mr L replied to Ageas by email on 18 February 2023. He said he didn't agree with the assumptions they'd made and raised a Subject Access Request (SAR).

He went on to provide further details of the incident. He said that when the paint tub bounced off his son's knee, the tub hit his knee off centre bouncing the paint and tub towards the spindles, hitting the spindles, splashing some of the paint onto the spindles, door, floor, and wall. And he attached a further copy of a photograph he'd previously provided, showing paint on the bottom of the door, and on the side where the hinges are.

Mr L said he didn't understand what was implied by the expert's comments about the direction the paint tub had travelled, and asked Ageas to clarify this.

In relation to what the report said about expecting to see more damage on the bottom step, Mr L said he couldn't explain why the paint tub landed as it did. He asked Ageas to provide diagrams and calculations to support their theory.

He also said that as she'd told one of their advisors, his wife started cleaning the bottom step and the laminate flooring, as this was new, but this still has remnants of paint in the joints.

She also tried to clean the bottom step, but realised dye was coming out of the carpet and the paint was going to be impossible to get off. She'd also told their advisor that they wouldn't need to claim for the laminate flooring, as they thought the remnants of paint would wear off.

Mr L also said that the expert hadn't looked at the photographs correctly, so he didn't accept their opinion. When the first assessor visited his property Mr L says he told Mr L that he could see how the damage had happened, and it was the assessor who suggested they claim for the wall in the office/dining room. He also asked why he'd received an email confirming they could go ahead with the claim for carpet damage in November 2022.

He concluded his email by saying they felt the decision was wrong and felt insulted by the comments Ageas had made. As rather than claiming for more damage they'd tried to reduce it by cleaning the wallpaper, laminate, and carpet.

In their final response letter dated 20 February 2023 Ageas acknowledged that it had taken them longer than was acceptable to deal with validation of his claim. And Mr L hadn't been provided with any updates. They apologised for this and offered him £150 as a gesture of goodwill, which they said would be sent to him shortly.

But they said they made the correct decision in declining his claim, due to the inconsistencies with the damage. They said they might look to reconsider things if Mr L replied to their letter of 1 February 2023.

Mr L wasn't happy with the response Ageas provided and complained to our service. Our investigator considered the case but didn't uphold the complaint.

He said Ageas had provided an expert's report which says the damage reported by Mr L couldn't have happened as he described, as the paint would have needed to change direction. Some of the paint on the staircase spindles appeared to be remnants of old paint which he couldn't hold Ageas responsible for. And the paint spills on the stair carpet appeared inconsistent with the account Mr L had provided of how the paint tub fell. So based on the evidence he felt Ageas had acted reasonably in declining the claim.

Mr L didn't accept our investigator's opinion. And he made the following comments: -

- He's explained that the paint tub changed direction as it initially bounced sideways off his son's knee. It gained momentum off his knee travelling upwards as his son fell down the stairs. This caused the paint tub to hit the spindles, spraying paint along the spindles with the tub eventually landing at the bottom of the stairs.
- The paint tub hit his son's knee off centre and tipped sideways. This was exacerbated by the paint sloshing around in the tub.
- Our investigator accepted the expert opinion provided by Ageas, but this said there was no paint splatter on the edge of the door. But paint splatter can be seen on the door in one of the photos.
- The expert has predicted how they say the paint tub would have landed and how the paint would have splattered. But this would be very difficult to predict after hitting his son's knee and ricocheting off the bannisters. And the paint in the tub would affect this. Mr L is a mechanical engineer and asks to see any calculations and vector drawings to support the expert's opinion. He wants to know how the expert predicted the exact location and spread of the paint splashes.

- He doesn't understand the statement that there appears to be old paint on the spindles which Ageas can't be held responsible for, as he fitted the spindles which have never been painted, only varnished. There is paint on both sides of the spindles because it ran down the spiral grooves of the spindles during the accident.
- He hasn't seen the expert's report and needs a copy to understand what is said about the damage to the stair carpet. But a quarter full large tub of paint can cause a lot of damage.
- Ageas seem to be suggesting he and his family staged the incident, which is absurd after they'd decorated, re-varnished, put down new flooring before the incident and attempted to clean up the spilt paint.
- Ageas sent him a cheque for £150 and admitted they'd acted incorrectly.
- Ageas initially led him to believe his claim was going to be settled as he received a letter and an email from the firm dealing with his claim for the damaged carpet, saying the claim could proceed. But it then took five months for him to be told the claim had been declined.
- His Subject Access Request remains outstanding and our investigator hasn't mentioned this.
- He doesn't understand how our investigator thinks he's been treated fairly and reasonably. There was an accident and he's been made to feel as if he's been dishonest, and this has caused a lot of stress and anxiety.

Our investigator provided a copy of Mr L's comments to Ageas but they didn't provide any response to these.

Ageas hadn't sent Mr L a copy of their expert's report. Our investigator sent Mr L a copy of the report and he's provided some further comments after considering the report.

This is what he's said regarding how the accident happened: -

- His son was coming downstairs holding the paint tub. The lid of the tub wasn't sealed shut as the paintbrush was upright inside, being held in place by lid so it didn't slip down into the tub.
- His son slipped and dropped the paint tub. The lid dropped to his right causing a mark on the step just above the middle of the stairs, it then bounced to the floor.
- The tub hit his son's knee which propelled it sideways. Mr L thinks the tub probably hit his son's knee with some force as he was trying to right himself. The tub then hit the bannisters rail high up causing paint to run down the handrail and the spindles splattering the walls and door to the side of the stairs. The tub then slid down the bannisters hitting the bottom stairs and ending up on the hall floor.
- His wife and son tried to clean up and mess and were still doing this when he got home from work. He told them to stop as they needed to contact the insurers. They'd only just had the laminate flooring in the hall fitted and decorated the hall.
- His wife contacted Ageas who asked for photographs of the damage. She explained they cleaned up some of it.

- Two assessors visited and didn't express any concerns about the accident. He wasn't intending to claim for the damage to the office/dining room, as this was to be decorated, but the assessor said they should.

Comments on the expert's report: -

- The report says the paint tub was sealed, but it wasn't.
- The photographs used in the report don't show all of the paint damage.
- The report comments that there is no paint in the centre of the stairs. This is because as they told Ageas in the initial call report the accident, his son was covered in paint, as a lot fell on him rather than on the area of the stairs highlighted in the report.
- The small blue circle marked on the photo (Fig 5) was a secondary paint mark from his son's hand which was covered in paint, where he pushed off the step to stand back up, rather than the tub lid hitting it, although this may have contributed.

Since our investigator considered the case we're asked Ageas to provide copies of any calls between the and Mr L and his wife. They're provided four calls.

The first call is dated 29 September 2022 and is a call from Mrs L on behalf of her husband to provide more information about the accident, which had been reported earlier that week. She tells Ageas that her son slipped four steps from the bottom of the stairs. She says that there was paint on the bottom four steps and splashes everywhere, on the opposite wall and even though the living room door was closed, paint had got through the space around the door.

Ageas wanted to set up a video call to view the damage, but they weren't able to get this to work, so they asked Mrs L to send photographs and provided details of where to send these. Before the call ended Mrs L told Ageas that she hadn't thought to take a photograph of the puddle of paint at the bottom of the stairs before she cleaned this off the laminate.

The second call is dated 3 January 2023. This is Mr L calling Ageas to complain that he's heard nothing from them for three months. He's clearly very unhappy with the service he's received. It's a very short call and ends when he's put on hold to be transferred.

The third call is dated 23 January 2023. Mrs L calls Ageas for an update and says they haven't heard anything since the call of 26 September 2022. She's told Ageas need further information. She asks what they need as she says they've had their report for over a month. She's told just in relation to settlement of the claim.

Mr L then takes over the call and asks what that means. Ageas reply that it's how they're going to proceed with the claim. Mr L says he wouldn't be confident about them sending anyone to do the work and asks to speak to a manager. He clearly unhappy and asks whether Ageas are incompetent or simply don't want to spend money on the claim. He makes the point that they've never made a claim before. He's told they understand his frustration and wanting his claim resolved and that a call back from a manager will be arranged.

The final call is dated 30 January 2023. Ageas called to speak to Mr L as he'd requested a call from a manager. Mrs L takes the call and says her husband isn't home from work. She says that the assessors were sent out quite quickly, but nothing has happened since then. They've been told that the claim for their carpet had been verified, but the other work needs to be done before this. She says they'd logged a complaint and intend to contact the

Financial Ombudsman. She's told Mr L should receive a letter in about a week. But when she asks what this says, she's told the caller can't say as they don't have access to the letter.

Ageas haven't provided the initial call when Mr L reported the accident.

We also asked Ageas to confirm whether they responded to Mr L's email of 18 February 2023, as there's no record of a response in the information they've sent us. Ageas have told us that someone reviewed the letter but no one contacted Mr L about it.

And we asked Ageas for their comments on what Mr L has said about their expert's report. They've sent a copy of his comments to their expert who has said that they contain the following inconsistencies: -

- Initially no comments regarding the lid/hand damage.
- Son's hand caused part of the paint damage.
- The lid was not on the paint tub fully.
- The lid caused part of the paint damage.

She also says that the tub bouncing off the son's knee doesn't alter the analysis conducted on the stains present. And she says there can only be one version of the truth and Mr L can't keep changing the version of events in the hope that one will work out as an adequate explanation.

She then goes on to say that to accept the damage happened in the way Mr L has said, we would have to accept the following and that they all happened in one event: -

- The paint turned 90 degrees to damage the room at the bottom of the stairs.
- The paint damage started at the top of the stairs.
- The paint damaged the left side of the stairs as well as the wall on the right.
- The bigger areas of damage at the bottom of the stairs avoided the bottom step.
- The flooring was also damaged but was able to be cleaned well.
- A stain was also caused by the son's hand.
- And the same stain caused by the son's hand was also caused by the paint lid.

She says that this just isn't possible. And she's loathe to explain why because the more information Mr L receives the more he alters his version of events to try and explain his own inconsistencies.

The case then came to me for a decision. I issued my provisional decision on 20 October 2023 and in it I said: -

Having considered the accounts of the accident provided by Mr L and his wife I can't see any real inconsistencies in the information they've provided to Ageas. In saying this I'm taking into account that Mr L wasn't at home when the accident happened, so what he's said is based on what he was told by his wife and his son. And Ageas haven't provided the first call

Mr L made to report the incident.

The first call we have been provided with about the accident is on 29 September 2022. Ageas seem very concerned about the area covered by splashes of paint. But a couple of days after the incident Mrs L told them there were 'splashes everywhere' including on the opposite wall, on the living room door, and some paint had managed to get through the gap around the closed door into the living room. So this isn't damage that's been added to the claim at a later stage.

The assessors report dated 12 October 2022 regarding the paint damage confirms that this assessor validated Mr L's claim. This is consistent with Mr L telling us that he didn't intend to claim for the damage in the living room, as this was to be redecorated, but one of the assessors told him he should.

I accept what Mr L has said about this, as I don't think there's any evidence that he's tried to exaggerate this claim. Quite the contrary. He and his wife spent a lot of time cleaning up the spilt paint from the laminate in their hallway. And despite there being some paint marks left on the laminate, he didn't claim for this as he's told us he thought the marks would wear off over time.

The expert report Ageas rely on is dated 13 December 2022. It's a desktop report based on photographs of the damage. Mr L hadn't been provided with a copy of the report, until we sent it to him. Details of his comments on the report are set out above together with the expert's comments on what Mr L has said about the report.

I think it's perfectly reasonable for Mr L to have added to the account provided after the incident. When Ageas declined his claim they said they might reconsider if he provided further information by 21 February 2023. He provided further information in his email of 18 February 2023, but he received no response to this. And Ageas have confirmed that someone looked at the email but it wasn't actioned.

And having been sent a copy of the expert's report Mr L provided further comments, which is what I'd expect him to have done. Had Ageas provided him with a copy of the report when they declined his claim, he could have provided his comments in his email of 18 February 2023.

I'm not persuaded that Mr L has been embellishing his account of the incident and the damage it caused. I accept that he's added to his account but there's been a reason for him doing this. And the areas of damage he's reported have remained the same. So I'm satisfied that the further information he's provided has been an attempt to answer the concerns raised by Ageas about his claim.

Turning to the expert's report I'm not persuaded by her conclusions. The report is based on a number of assumptions about how the paint tub would have fallen and where the paint would have landed. But the report seems to ignore the account provided by Mr L and his family. And when asked by Mr L, who works as an engineer, to provide details and calculations to support her findings, the expert has said 'she's loathe to explain why because the more information Mr L receives the more he alters his version of events to try and explain his own inconsistencies.' Mr L's account has been called into question and he's asked for more information about how she reached her findings, which I think is entirely reasonable.

And I don't accept her statement of all the things she says would have had to have happened for the damage to have occurred in one event and as Mr L has stated, and that this just isn't possible.

We don't know that the paint turned 90 degrees to damage the room at the bottom of the stairs. Her report states this, but I accept Mr L's account that when the lid came off the paint pot, paint went everywhere.

There was a lot of damage towards the bottom of the stairs. I don't think there's anything suspicious about there being less damage on the bottom step. Mr L and his wife have both confirmed that she started to clean the bottom step before realising that dye was coming out of the carpet. So the damage didn't avoid the bottom step. And if there was less paint on this step it could simply have been from the way the paint pot fell.

When the claim was reported Mr L and his wife both told Ageas that there was a pool of paint on the laminate flooring in the hall, which they were able to clean up. I accept what Mr L has said about this, and if he was going to fabricate or exaggerate his claim, I think he'd have included a claim for the laminate flooring, which he's told us still had some paint marks on it. So I don't understand why the expert is saying the laminate flooring wasn't damaged. I'd expect laminate to be far easier to clean than carpet, which the paint would have started to soak into immediately. So I don't think there's any inconsistency here.

I think Mr L has done his best to comply with his obligation under the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) to take care and provide accurate answers to all the questions Ageas put to him. And I'm not persuaded that he's exaggerated or misrepresented the damage caused by the accidental paint spillage that occurred in his home in September 2022. I accept his account of the damage this caused to his property and how this occurred.

So I don't think Ageas acted fairly when they declined Mr L's claim. And to put things right I require them to accept his claim and to assess it in line with his policy terms and conditions on the basis that the damage he reported was caused by an accidental paint spillage in September 2022.

Ageas have accepted that there were unnecessary delays in them dealing with Mr L's claim and that he wasn't kept updated, and they've paid him £150 compensation for this. Taking into account all that happened, including the delays, the lack of updates and that Ageas told Mr L they'd review his claim if he provided further information, but they failed to even acknowledge the further information he sent them within the timescale they'd provided, I don't think this is enough.

I think the way Ageas have handled Mr L's claim has caused him distress and inconvenience. And I require them to pay him £350 compensation for this, inclusive of the £150 they've already paid.

Mr L has told us the Ageas haven't responded to his Subject Access Request. If this remains outstanding and it's something Mr L wants to pursue he needs to contact the Information Commissioner's Office as this isn't something I can comment on.

So my provisional decision was that I upheld Mr L's complaint.

Mr L has told us that he has nothing to add to my provisional decision. Ageas haven't made any comments.

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.

As Mr L has indicated that he has nothing to add to my provisional decision and Ageas haven't made any comments, I see no reason to reconsider my findings.

Putting things right

I don't think Ageas acted fairly when they declined Mr L's claim. And to put things right I require them to accept his claim and to assess it in line with his policy terms and conditions on the basis that the damage he reported was caused by an accidental paint spillage in September 2022.

Ageas have accepted that there were unnecessary delays in them dealing with Mr L's claim and that he wasn't kept updated, and they've paid him £150 compensation for this. Taking into account all that happened, including the delays, the lack of updates and that Ageas told Mr L they'd review his claim if he provided further information, but they failed to even acknowledge the further information he sent them within the timescale they'd provided, I don't think this is enough.

I think the way Ageas have handled Mr L's claim has caused him distress and inconvenience. And I require them to pay him £350 compensation for this, inclusive of the £150 they've already paid.

Mr L has told us the Ageas haven't responded to his Subject Access Request. If this remains outstanding and it's something Mr L wants to pursue he needs to contact the Information Commissioner's Office as this isn't something I can comment on.

My final decision

For the reasons set out above and in my provisional decision my final decision is that I uphold Mr L's complaint about Ageas Insurance Limited.

And to put things right I require them to do the steps set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 19 December 2023.

Patricia O'Leary
Ombudsman