

The complaint

Mr S complains Highway Insurance Company Limited (“Highway”) hasn’t dealt with his claim fairly on his property insurance policy following an escape of water. He says it should settle his full claim and not include the cost of one of the third-party contractors who attended.

Any reference to Highway includes its agents.

What happened

Mr S took out a property insurance policy to cover his home in July 2021. In February 2022, following an escape of water from his bathroom, he made a claim on his policy. Highway paid Mr S around £7,800 to cover the cost of repairs, including removing and replacing wallpaper, flooring and skirting in his dining room.

Around two months later, in April 2022, Mr S contacted Highway again. He said there was a leak from his water supply under the kitchen and a lot of water had escaped into his neighbours’ gardens.

Initially, Highway offered to arrange a leak detection agent (“LD1”) to attend the property. But as they weren’t immediately available, it agreed to Mr S finding his own agent at their cost. Mr S’s leak detection agent (“LD2”) attended the property but couldn’t access the leak. It provided a report which says the leak site was outside and full excavation works were needed. They also said Mr S had reported water damage inside his home from this leak. As LD2 couldn’t access the leak, Mr S and Highway agreed during a call that LD1 should attend. Highway has given us a recording of this conversation.

When LD1 attended Mr S’s property, they were unable to access the leak site as they also couldn’t carry out the necessary excavation work. So Highway instructed a third leak detection agent (“LD3”) who identified and repaired the leak. Highway covered the cost of LD1 and LD3 under the policy’s trace and access cover but it said it wouldn’t cover the full cost of LD2 anymore as the policy limit had been reached. Mr S didn’t think this was fair as he didn’t think LD1 should’ve been instructed. Highway says Mr S wanted LD1 to attend and insisted they carry out unnecessary works even when they made it clear they couldn’t help.

Highway has declined to cover Mr S’s claim for repairs to the inside of his property including the flooring, skirting and wallpaper. Whilst it accepts there was limited damage caused during the trace and access work, it doesn’t accept the water damage to the inside of his property is related to the external leak. Instead, it thinks Mr S is claiming for damage caused during the leak in February 2022 which he hadn’t repaired. So, it’s pre-existing. Mr S doesn’t agree. But he told Highway and our Investigator he hadn’t replaced all his flooring or any of his wallpaper following the first leak.

As Mr S was unhappy, he complained to our service. Our Investigator upheld the complaint in part. She didn’t think LD1’s cost should be covered as part of the claim. And she thought Highway should settle Mr S’s claim for the water damage to the inside of his property, less the amount it had paid under the previous claim for works that remained outstanding. Neither party accepted our Investigator’s view so the complaint was passed to me to decide.

I issued a provisional decision at the beginning of November 2023. My findings are below:

'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Based on what I've seen so far, I plan to uphold Mr S's complaint in part and not in the way he wants, I know he'll be very disappointed. I'll explain why.'

Cost of trace and access

The limit for trace and access works under Mr S's policy is £5,000. Highway has said the combined cost of the three leak detection agents is around £5253. So it's covered the cost of the two agents it instructed and it's offered Mr S around £714 towards the cost of LD2. That means he's out of pocket by around £200, which he thinks is unfair. At the moment, I agree.

I've listened to the recording of the call when Mr S asked to instruct LD1 as his agent hadn't been able to find the leak. During this call, he mentioned a leak outside, a lot of concrete and he said on two occasions that groundwork was needed – once referring to two days' of groundwork.

I appreciate Mr S could've been clearer during this call that the leak was outside his house. And I accept he sent the report too late for Highway to review before LD1 attended. But I'm currently satisfied Highway had enough information during the call to question Mr S more about the location of the leak and insist on waiting for the report before making any decisions. I can also see Highway told Mr S it would cover the cost of LD2 on several occasions – and I think he relied on this when instructing them. So I don't currently think it's fair for Highway to include the cost of LD1 instead of LD2 under Mr S's trace and access limit.

I note Highway has said Mr S insisted LD1 carry out some trace and access work when they arrived at his property. But LD1 was an agent of Highway and should've followed its instruction. I think it's more likely they had enough information on arrival at Mr S's property to know the leak was outside and they wouldn't be able to carry out the trace and access works. So I think they should've left or confirmed with Highway before continuing.

Water damage inside the property

Mr S has claimed the cost of repairing the water damage to the inside of his property as he says it was caused by the external leak in April 2022. To support this, he's provided a quote from LD2 for repair work it says is necessary. But in this case, I don't think he's given us enough to show what he's claiming for is more likely a result of this leak. And in a claim of this nature, it's for him to do so.

I've looked very carefully through all of the evidence I've been given including the report from the leak detection agents and a contractor who inspected Mr S's property. And none say the external leak caused damage to inside his property. Whilst LD2 does reference the internal water damage, there's no evidence they traced the damage back to the external leak themselves but instead it seems they relied on what Mr S had told them about the damage. I think it's unlikely they were aware of the previous leak in February 2022 – or the previous damage – otherwise I think they would've mentioned it in their report.

I've also looked at the photos of Mr S's property from February and around April 2022. And I've considered what he said about not replacing the full floor or the wallpaper after his first claim. I don't currently think Highway has acted unreasonably in declining this part of the claim as it seems likely to me the damage claimed for is pre-existing. And at the moment, Mr S hasn't provided any evidence it's a direct cause of the escape of water in April 2022.

Mr S says there was a second leak in April 2022 from inside the property. So I presume he thinks the damage may have been caused by that. But he's not given us evidence of this and none of the reports show leaks within the property. So I don't accept what he's said. Highway accepts there was limited damage to Mr S's home caused by the trace and access work – in particular, holes in his wall and floor. It's said it would cover the cost of putting this right as part of the trace and access cover. That means it's also subject to the trace and access limit of £5,000. And based on what I've seen so far, I think that's fair in this case.'

I asked both parties to make any further comments before I reached a Final Decision. Mr S didn't respond to my provisional decision by the deadline set. Highway said it had no comments to make unless Mr S replied with any additional information.

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 looked at the responses I've received, I see no reason to change my conclusions set out in my provisional decision.

Putting things right

To put things right in this case, I think Highway should:

- Remove the cost of LD1 from the amount it's covered under the trace and access limit and cover the cost of LD2 instead. If Mr S has already paid LD2 for the trace and access work, Highway should reimburse him the amount he paid plus 8% interest from the date he made the payment to the date of settlement* upon receipt of evidence he's paid them.
- Assess and cover the cost of repairing the damage directly caused by the trace and access work up to the overall trace and access policy limit. If Mr S has already paid to repair this damage, Highway should reimburse the amount he paid up to the trace and access policy limit once he provides an itemised receipt showing what he's paid. It should add 8% interest to this from the date he made the payment to the date of settlement*.

*If Highway considers that it's required by HM Revenue & Customs to take off income tax from the interest, it should tell Mr S how much it's taken off and give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs.

My final decision

For the reasons I've given, I uphold Mr S's complaint in part and direct Highway Insurance Company Limited to put things right by doing what I've said above.

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

Nadya Neve
Ombudsman