

## **The complaint**

Mrs J, represented by her son, Mr J1, has complained about her property insurer Liverpool Victoria Insurance Company Limited (LV) as she feels it delayed her subsidence claim as well as handling it poorly.

We are an informal service. I trust the parties will understand that this means my background below and my findings summarise the key complaint issues, that not every point of concern raised can reasonably be specified I can also assure the parties though that I have read, understood and considered everything they've presented.

## **What happened**

Mrs J, who is elderly and disabled, lived in her home with her two sons, Mr J2 and Mr J3. Mr J2 was disabled and has since passed away. Mr J3 can walk a little but often uses a wheelchair. They'd noticed cracks in the home so made a claim to LV in October 2018.

LV accepted the claim, started monitoring the property and it then took action to get some trees removed on neighbouring ground which were thought to be causing the subsidence. It was June 2021 when LV felt Mrs J's property was stable.

Repairs to Mrs J's home only began in April 2022. LV said the family couldn't stay there during repairs. But LV couldn't find suitable alternative accommodation for them. So Mrs J and her sons had to move in with her daughter – whose property wasn't adapted for their needs. Repairs at Mrs J's home were reported largely complete by 31 May 2022 – although work in the bathroom had been delayed so it wasn't finished. Even so, Mrs J and her sons moved home.

Mr J1 told LV there was other work, in addition to the bathroom, not completed at the home. And on 31 July 2022 Mr J1 called LV as he was alarmed to have found that the backdoor – replaced during the work – now couldn't fit a wheelchair through it. Mr J1 had discovered this whilst ambulance workers were trying get Mr J2 out of the house to go to hospital. LV asked the contractors who had worked at the property, and they said they wouldn't have made the door smaller. In September 2022, when the hospital sadly returned Mr J2 home for palliative care, the issue with the backdoor had not been resolved. The contractor though noted that standard frame sizes for UPVC doors had changed, meaning the opening of the replacement door was 20mm narrower. A replacement door was custom made and fitted by the end of October 2022.

On 29 December 2022 LV issued a final response letter (FRL) to Mr J1, responding to concerns he'd raised about the claim and what his mother and brothers had been through. In that letter LV agreed to cover all the expenses Mr J1 had drawn to its attention. It also said it would pay £20/person/day for Mrs J, Mr J2 and Mr J3, as well as her daughter, for the period the family had lived in the daughter's home. LV said it recognised that the claim had been handled poorly at times, that errors had been made and that substantial distress and inconvenience had been caused. It said it would pay £3,000 compensation and waive the £1,000 policy excess. It said it would review a report Mr J1 had commissioned and consider whether to reimburse its outlay, along with paying for repairs it commented on.

Mr J1 felt LV had not gone far enough – he said this claim had gone on for four and a half years but should have been resolved in less than 18 months. He said the family needed fair recompense for the four and half years of trauma LV had put them through and that he wanted compensating for all he'd done too. He said he wanted LV to cover the cost of the report and the repairs.

Our Investigator explained that the Financial Ombudsman Service can't award compensation to those who represent complainants/policyholders. She also said that as LV had agreed to consider the report and repairs in its FRL, we couldn't look, in this complaint, at its decision about whether or not to cover those costs. In this complaint, she said, we can only look at what happened up until the December 2022 FRL.

In respect of how LV handled the claim she felt there had been avoidable delays which had significantly impacted Mrs J. But she noted LV had recognised this and paid a total of £4,000 compensation (including the waiver of the policy excess). She felt that was fair so she didn't suggest it should do anything more.

Mr J1 was unhappy with that outcome. He felt that none of the numerous injustices he'd detailed had been considered. He said it had been five years and the repairs were still unfinished. He said £3,000 wasn't enough for health and daily life being substantially impacted over that period. He said this was an initial offer by LV which is fairly to be negotiated upwards until a final suitable amount is agreed. And he said LV had not waived the excess – that this had been paid by Mr J2 and Mr J3 in the early stages of the claim.

Our Investigator further replied to Mr J1. She confirmed the sums which Mr J1 had referenced and had thought were the policy excess were not. When Mr J1 remained unhappy the complaint was referred for an Ombudsman's 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.

I can see that Mrs J and her family have been through a lot since noticing the cracks in the home in 2018. I absolutely appreciate how difficult things have been for them and understand that they could not have foreseen that the claim would take so long to get to the point it was at in December 2022. I understand that the claim's slow progress at times has been more than frustrating for them. I also understand how upsetting it must have been for them to see Mr J2's health deteriorate during this time and that it is upsetting for them to know that, this period at the end of his life, was so disrupted. I can assure Mrs J that I've taken all of this into account when considering her complaint.

The claim was made in October 2018. The property needed to be monitored to see if it was still moving and, if it was, to help identify the cause. It was and the cause was identified as trees on neighbouring land. With some of the neighbours agreeing to reduce or remove

some trees it was felt monitoring would be needed through summer 2020 to see how that impacted the area. Those results showed there was still movement. In mid-October 2020 it was noted solicitors would be required to assist with getting the remaining trees removed in order to stabilise the property. That didn't happen until late March 2021. That was an avoidable delay by LV of about six months.

The trees were subsequently removed by the end of May 2021 and a further monitoring reading satisfied LV that the home was stable by the end of June 2021. As I noted above, repairs then didn't start until the end of April 2022. That was far too long.

There were some unavoidable difficulties encountered during this time – such as trying to find suitable alternative accommodation for the family – that was always going to be difficult in their circumstances, and I can see that LV reviewed many options to try and find a suitable way for progressing the repairs whilst keeping the family safe. But even with all of that there was at least one error made by LV regarding the accommodation – a miscommunication meant the chance to let a suitable, available property was lost. That ultimately caused the family to move into unsuitable accommodation with Mrs J's daughter. I can assure Mrs J that I've taken those circumstances into account.

There will also likely be some natural delay in moving to repairs after stability is assured. Final checks on the building will be required to determine what repairs are needed. There will also often be lead times involved for contractors to take up the work. How long all of that might take will depend on the complexities of the claim in question. And here I can see that there was an added complication in this claim at the time as there was a dispute over whether work to the roof was required. That is part of what LV has been considering after is FRL, so I can't make a finding about the dispute itself. But it clearly complicated the subsidence repair issue at this time.

Let me be clear though. Even with these additional aspects adding a layer of complexity to this claim – it should never have taken 10 months for repairs to progress. Particularly in the family's circumstances. That was far too long. And, from what I've seen, the period was peppered with inactivity, delay, and poor planning by LV's loss adjuster and contractor. I'm also aware that an unfair cash settlement offer was made during this time. Having taken all of the circumstances into account, I think this should have taken no more than four months to progress to repair.

Which leads me to conclude that the claim was delayed by about a year before the family moved out and repairs began. I've looked at the repair period. I know Mr J1 feels it was mismanaged and unreasonably delayed. But I'm satisfied that once the bathroom was stripped, revealing unexpected damage, that needed to be considered. I note LV did that within a fortnight, that work continued in the rest of the house in the meantime and that work resumed in the bathroom a few days after the damage was inspected. I know the family then moved home without a fully functioning bathroom – but that this was preferable to them to continuing to stay with Mrs J's daughter, and that their bathroom was fully reinstated within about a week. I realise that Mrs J felt like she had no choice but to move home – but I'm satisfied that the delay with the works was unavoidable and so not unreasonable.

I'm sure Mrs J would have hoped that once the bathroom was reinstated, that would have been an end to the claim. But it wasn't and some of the remaining issues were still not resolved by the point of LV's FRL in December 2022. I think that is very disappointing, so I can certainly understand how upset Mrs J was. One of the repair issues found at this time was newly installed flashing coming away, which the contractor tried to argue must have been due to storm conditions having occurred. That has since been rectified.

Then there was also the issue of the door, which I understand Mrs J and Mr J2 used for wheelchair access. I found it disappointing to note that the contractor initially said it hadn't changed the size, and then tried to defend the fact that the size had changed because, it said, the original door hadn't been *adapted* for wheelchair use. Given the original door was wide enough to fit the chairs through it did not need to have been adapted. I think it was short-sighted in the extreme of the contractor, and the loss adjuster, to not check things like the door width when working on a property that is the home of people with specific mobility needs. The change in 'standard' size should have been noted and checks should have been made to see if the new door proposed was suitable for Mrs J and her family. That would, I think, have resulted in them having noted that it was not and a custom door being ordered earlier in the repair process. Careful and reasonable management of this aspect of the claim could have avoided the whole unfortunate and distressing episode which occurred in autumn 2022.

With all of that noted by me, I have to also fairly record that LV, on this occasion, does seem to have recognised that it got this wrong. And that in getting it wrong it caused sustained distress, likely impacting health and severe disruption for more than a year. I say that having seen the correspondence from LV's complaint handler, including the FRL and having noted the level of compensation LV thought was required – £4,000 in total (including the waived policy excess).

I appreciate that Mr J1 feels that the excess was paid. But I'm satisfied the sums paid were not excess sums, and I'm aware that LV has provided proof that these sums were, in fact, reimbursed. I also understand that Mr J1 feels compensation for the whole of the claim period and for his input is required. As our Investigator explained, we can't award compensation for representatives. Further, we don't award compensation for upset which occurs as a natural result of having a claim. Only for that which occurs during periods of delay and/or on account of specific failures by an insurer. I've set out those key delays and failures above and I've considered all of the details provided, even though I haven't been able to specify everything. I'm satisfied that total compensation of £4,000 (including the waiver of the £1,000 policy excess which Mrs J would otherwise have to pay to LV) is fair and reasonable compensation in the circumstances here. As such, I'm not going to require LV to pay anything more.

### **My final decision**

As set out above, it is my decision that Liverpool Victoria Insurance Company Limited failed Mrs J in its handling of her claim. But, as also set out above, as it has paid, what in my view is fair and reasonable compensation for the distress and inconvenience it has caused, I'm not requiring Liverpool Victoria Insurance Company Limited to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 9 May 2024.

Fiona Robinson  
**Ombudsman**