

## The complaint

Mr G and Ms G complain about the way Fairmead Insurance Limited has dealt with a claim on their home insurance policy, in particular that they were told the claim would be treated as having a 'nil' value until it was finalised and would not affect their premiums.

## What happened

Mr G and Ms G have buildings and contents insurance for their home. Mr G has dealt with the correspondence relating to this complaint so for ease I will mostly refer to him.

A claim was made in 2020 after a sewer in a neighbouring property overflowed and caused extensive damage, including two walls in the garden being destroyed.

Fairmead accepted the claim and arranged for repairs to be done to their home and to neighbouring properties. This involved liaising with the neighbours, their insurers and the water company. Responsibility was split between several parties.

Mr G has made previous complaints about the way Fairmead handled the claim and about delays and those have been dealt with separately. He raised this complaint after he said he had discovered that the full costs of the repairs had been recorded against his claim after he had been promised by Fairmead that wouldn't happen. He says most of the costs will ultimately be the responsibility of other parties so it's unfair the full cost was set against his claim – this has led to large increases in their premiums, which isn't fair.

Our investigator reviewed this complaint but didn't think it should be upheld. He said:

- Fairmead is required to keep accurate records of the claim, including the amounts it has spent on the repairs and associated costs, and this includes the records on the Claims and Underwriting Exchange ("CUE").
- It was correct to record the amounts it has spent, and recording the claim as having a nil value would not be accurate.
- Fairmead started action to recover costs from the other parties involved once it was able to do that, which was once the final costs figure was known.

Mr G disagreed and provided detailed comments. I won't set them out in full but the key points include:

- It's not fair that the claim value is recorded as £202,000, as the absolute maximum that will be set against their claim is half that (and probably less).
- Fairmead needed his consent to proceed in this manner. He explained his concerns about premiums but was assured that wouldn't be an issue and the claim would be recorded as nil until the final amounts were agreed.
- It isn't fair that his premiums are calculated on the basis of this claim value. They have been inflated to a false amount while his neighbour's premiums haven't increased even though they will have the majority of the cost.
- The compensation he's had for all the problems is less than the extra he's had to pay through higher premiums.
- Fairmead still hasn't agreed the amounts with the other insurers, and hasn't kept him updated at all about what's happening.

- He wasn't even aware of CUE until he received the investigator's view.

Before proceeding with my decision I asked for comments from Fairmead about what it had told Mr G about the way the claim value would be calculated and about how his premiums have been calculated

Fairmead didn't provide any further information so I proceeded on the basis of the evidence that I had.

Based on that information, I issued a provisional decision saying I intended to uphold the complaint and direct Fairmead to pay compensation of £500. I set out my reasons as follows:

In making my decision I need to consider what's fair and reasonable in all the circumstances of the case, taking into account relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and (where appropriate) what I consider to have been good industry practice at the time.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress; and not unreasonably reject a claim. They should settle claims promptly once settlement terms are agreed.

It's not in dispute that the policy provides cover for Mr G and Ms G's claim. They have previously complained about the way the repair works were done and delays in handling the claim but those complaints have been dealt with. In this complaint I'm only considering the issues Mr G has raised about how the claim value has been recorded and the impact this has had on their premiums.

Mr G is very unhappy that the full costs of the repairs – over £200,000 – have been recorded against his claim. I appreciate that once costs have been apportioned and recovered from the other parties, the amount that will ultimately be recorded against his and Ms G's claim will fall. But it's not yet certain what that amount will be. Normal industry practice is for insurers to record the amounts they spend against a claim. Fairmead was required to do this and to record on CUE the costs it has incurred. If it didn't do that, the records would not be an accurate reflection of the cost.

Where some or all of the costs are then recovered from another party, the record can be amended to reflect this. But that can't happen until the relevant amounts are known. While there may be an expectation other parties will contribute, whether they actually do so, and to what extent, may depend on the circumstances. At this stage the final outcome is uncertain.

I can see that, from Mr G's point of view, it's frustrating to have such a high value recorded if that isn't the amount that will eventually be his liability. Unfortunately it's the nature of a large claim where other parties may bear some responsibility - it takes time to unravel. The way Fairmead has recorded the costs is in line with normal industry practice and in these circumstances I think it's fair. As it stands today, Fairmead has paid around £200,000 for a claim, so it can take that risk into account.

Having said that, an insurer should keep policyholders informed and provide reasonable guidance to help them with their claim. Mr G says he was told the claim value wouldn't be recorded in this way and only agreed to Fairmead proceeding on that basis. So I've considered whether Fairmead kept Mr G and Ms G properly informed and if not, what impact this had.

I don't have any evidence of what was discussed other than what Mr G says. It would be surprising if Fairmead told him it would record the claim value as nil – the claim value would always be recorded as the amount Fairmead has actually incurred. Even if it did tell him that, it's unlikely the claim would actually have been recorded in that way. As I've explained, Fairmead has to record the costs it incurs so to record this claim as having a nil value would mean its records – and any records on CUE – would be wrong.

What's likely to have happened is that things would have been recorded as they have been in any event. But this should have been explained to Mr G. The claim would still have proceeded in the same way but he would have understood what was going to happen.

With regard to the premiums, they will be calculated on the basis of the rating factors Fairmead uses. I don't have details of these. But when setting premiums, insurers will take into account a number of factors. These typically include things like the postcode, the value of the property, its location, the risk of flooding and the number and value of any claims. So the fact that Mr G and Ms G had made a claim and the costs relating to that claim would likely affect the premium. Usually the claim alone, regardless of value, would push the premium up. And a complex and high value claim such as this one may lead to more of an increase in premiums.

I appreciate it would have been a shock to discover the claim value was much higher than expected. Added to the increased premiums, this was very upsetting for Mr G. He didn't expect this to happen. As I've explained, it was always likely this is how the claim would be dealt with but if they had been informed properly, Mr G and Ms G would have understood that and would not have been shocked to find this out at a later date.

Given the lack of clear information I think it's fair that Fairmead should compensate for the distress caused to Mr G and Ms G. I consider a payment of £500 to be fair. This reflects the fact that the claim had already been ongoing for some time and previous complaints had been made. So this was yet further upset for Mr G and Ms G.

Mr G has provided his own calculations of how he thinks the premiums should have increased, taking what he considers a fair price, based on a 10% increase each year from 2020 to 2023. As I've said, various factors would be taken into account and reviewed each year when calculating premiums. So it's not simply a question of adding a set percentage each year. And claims would be one of those factors.

I also appreciate that the compensation I am proposing may seem low to Mr G. He says the compensation they have already received is less than the increased premiums they have had to pay. But I'm not reviewing the premiums that have been charged. Once any costs have been recovered, I'd expect Fairmead to review the premiums to reflect any reduction in the claim value. I can't comment on what any such review might lead to. If Mr G is unhappy at that point he can make a fresh complaint.

Finally, Mr G says Fairmead failed to pursue recovery action promptly. It instructed solicitors to take action once it was in a position to do so. I know it's taken some time to proceed with that but this complaint was lodged in January 2023, shortly after action was started, and concerns the way the claim value has been recorded. So that's all I can consider. If Mr G is unhappy with the progress made in the recovery action since last January he can potentially make a further complaint about that too.

This claim was first made in 2020 and has been the subject of several complaint. It's no doubt upsetting for Mr G to be told he may need to make more complaints but I'm limited in what I can consider in this complaint.

## **Replies to the provisional decision**

Fairmead has replied to say it accepts the provisional decision.

Mr G has replied with further comments. I'll summarise the key points as follows:

- The provisional decision says the way Fairmead recorded the costs is in line with normal industry practice but if so, that raises the question of why it lied about this.
- He clearly remembers the discussion and Fairmead said either it would take the lead role or his neighbour's insurer would. It needed his permission to take the lead.
- The claim wouldn't have proceeded in the same way if he'd been given accurate information as he wouldn't have agreed to his insurer taking the lead role and so his premiums wouldn't have increased for the last three years.
- The provisional decision says various factors would be taken into account when calculating premiums but if a claim is not made and no other circumstances change, he would expect a 10% yearly rise to be more than enough.
- He still doesn't know how his claim has been resolved and what his share of the cost is.
- His reason for complaining was not to get compensation but to address bad practice, but there's no suggestion Fairmead will be held accountable or that anything will change

## **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.

Mr G is clear in his recollection of what Fairmead told him. I don't doubt his recollection but it's difficult to say what would have happened if things had been explained more clearly. Mr G says he wouldn't have allowed Fairmead to take the lead role but I don't know whether his neighbour would have agreed to their insurer taking the lead. This may have led to a lengthy period of negotiation and it's possible that Fairmead would have ended up in the lead anyway. There's no guarantee what the other parties involved would have been willing to agree to or how long it would have taken to reach an agreement.

What I can say is that Fairmead hasn't explained things clearly enough and this caused some shock and distress when Mr G found out how the claim was being dealt with.

Even if Fairmead hadn't taken the lead, Mr G and Ms G had made a claim on their policy. The claim would have been recorded and the claim itself would likely have increased their premiums.

I explained in the provisional decision that a number of factors would be taken into account when calculating premiums. Even if Mr G's personal circumstances hadn't changed (other than the claim) insurers take account of more general factors. In recent years, for example, the cost of materials and repairs has driven prices up. It's not possible for me to say a rate of 10% would have been used.

I know it's very frustrating for Mr G that he still doesn't have a final outcome for his claim. But while I agree there were failings by Fairmead I'm only considering the specific points raised in this complaint, not the whole history of the claim. It's clear Fairmead didn't provide the clarity of information that Mr G was entitled to and this caused unnecessary distress. But for the reasons set out in the provisional decision, I think the compensation proposed is fair to reflect that.

Mr G says he didn't set out to get compensation, he wanted to address bad practice, and

he's upset that it doesn't seem Fairmead is being held accountable. It's not for me to punish a firm or to impose fines; that's a matter for the regulator. Where something has gone wrong, my role is consider the impact on the individual and what can be done to put things right for them. I agree Mr G and Ms G were caused some distress and the way to address that is to compensate them.

### **My final decision**

My final decision is that I uphold the complaint and direct Fairmead Insurance Limited to pay compensation of £500 to Mr G and Ms G for the distress and inconvenience caused to them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G and Ms G to accept or reject my decision before 28 February 2024.

Peter Whiteley  
**Ombudsman**