

The complaint

Mr O complains that Fairmead Insurance Limited (Fairmead) unfairly declined his property insurance claim and caused unnecessary delays.

Any reference to Mr O or Fairmead in this decision includes their respective representatives and agents unless specified otherwise.

What happened

The background of this complaint is known in detail to the parties involved, so I'll summarise what I've found to be the key points.

In December 2022 a frozen pipe burst in an unoccupied property owned by Mr O, causing an escape of water and significant damage to the property. Mr O claimed on his 'Landlords, Unoccupied and Holiday Home Insurance Policy' (underwritten by Fairmead) for the damage caused.

Fairmead has highlighted a condition of Mr O's policy which states that during certain periods of the year, the insured property's heating system must be set to operate continuously at not less than 15 degrees Celsius when the property is unoccupied.

Fairmead therefore reviewed the energy usage at the property to assess how the heating was being used but found it to be lower than what would be expected had the heating been on as required. So, it declined the claim on the basis Mr O failed to comply with the policy condition resulting in the loss being claimed for.

Mr O said the boiler thermostat had been set to ensure the property maintained the required temperature of 15 degrees Celsius. Mr O explained that some of the property's energy was drawn from solar panels, so this likely accounted for what looked like a lower-than-normal energy usage on his energy bills.

Fairmead requested further details from Mr O about how the solar panels worked and how much energy was drawn from them. But Mr O was unable to obtain an exact breakdown from his energy provider. Fairmead maintained its position on the claim.

Mr O thought Fairmead's decision was unfair and complained to this Service. He said Fairmead had failed to reasonably consider the solar panels and took too long to communicate its claims decision, which led to worsening damage at the property and an increased cost of repair. He also said that given the pipe was in an unheated location (the loft) it would have burst regardless of how warm the main house was.

Our Investigator upheld the complaint. He accepted Mr O's testimony regarding the thermostat and solar panels and said Fairmead should reconsider the claim without relying on the heating condition as a reason for rejection. Fairmead disagreed, so the complaint was passed to me to make a decision. I thought differently to our Investigator and issued a provisional decision on this case in December 2023, giving both parties the chance to respond. I've included part of what I said below:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint."

Mr O's Fairmead policy provides cover for escape of water claims. But like most insurance policies, it's subject to certain terms and conditions which are set out in the policy documents. The relevant condition in this case relates to a heating clause which states:

"It is a condition of this insurance, that in the event of:

- a. The home being permanently vacated by the you or the tenant(s), or*
- b. Your tenant(s), if students, have left the home for more than 24 hours outside their relevant semester period*

during the period 1st October to 1st April each year that you comply with one of the following:

- i. Where the entire home has the benefit of a gas or oil fired central heating system, the system must be set to operate continuously for 24 hours each day at not less than 15 degrees Celsius or 59 degrees Fahrenheit; or*
- ii. All water supplies to the home are turned off at the mains and the entire water system be drained of all the water"*

The condition goes on to say: "If you fail to comply with any of the above conditions, this insurance will not cover loss or damage caused by escape of water from and frost damage to fixed water tanks, apparatus or pipes."

Besides Mr O's testimony, I've not seen any supporting evidence in this case that specifically shows the temperature the property was maintained at during the period in question. So, my decision is based on what I think is most likely on balance of the information that is available to me in this case, carefully considering both parties submissions.

Fairmead say that if the heating was on as required, it's unlikely the pipe would've frozen and so the damage being claimed for wouldn't have occurred. Pipes often freeze in cold weather if a home isn't suitably heated. So, in principle, I can understand why Fairmead reached that conclusion. And I think it's fair it requested meter readings from Mr O to further assess this conclusion before reaching its decision on the claim.

The meter readings I've seen, show that in October 2022, the gas reading at the insured property was 1367.4 and post loss (December 2022) it was 1371.7 – so very little usage. Fairmead say this shows that the energy usage at the property wasn't consistent with the heating being left on as stipulated within the condition set out above, because if it was, the readings would be much higher. So it's satisfied its decision to decline the claim was correct.

Mr O says his solar panels impact his energy usage and so the meter readings aren't necessarily a true reflection of the amounts used. But my understanding is that solar panels draw energy to power electricity, so they're unlikely to be relevant to Mr O's central heating as it's fuelled by gas. And Mr O didn't disagree when queried by our Investigator about how the solar panels work. Therefore, I'm currently persuaded that the meter readings Mr O provided are most likely an accurate account of the actual energy used to heat his property during the period in question, regardless of the solar panel activity.

With that in mind and given historical weather data from that time shows the average temperatures at the property's location were often well below 15 degrees Celsius, I'm minded to agree with Fairmead that if the thermostat was set to maintain the required condition temperature, then the heating most likely would've been in regular use, and so likely generating notably more gas usage than what the meter readings show.

It follows based on what I've seen so far, and on balance of the available information, I'm not currently persuaded that Mr O has reasonably demonstrated that he complied with the policy condition as set out above. And I'm satisfied that failure to do so is material to Mr O's claim, as inadequate heat in the property could reasonably lead to frozen pipes. So I don't think Fairmead has acted unfairly by declining Mr O's claim based on the information currently available to it.

I've considered all of Mr O's points, including what he's said about the pipe being located in the unheated loft space and so he thinks it would've frozen regardless of the temperature in the main house. But I haven't seen supporting information that reasonably evidences this opinion. And I think it's likely that the main heating system has at least some impact on the temperature of the entire house, so these points don't change my conclusion.

I've also considered Mr O's points about Fairmead's delays. He says it took Fairmead five months to tell him the outcome of his claim, resulting in worsening damage at his property while he waited for its decision.

But from the information I've seen, Mr O made his claim in December 2022, and by mid - February 2023, Fairmead had informed Mr O's rep that the claim would be declined due to the meter readings showing low usage, suggesting the heating clause hadn't been complied with. Further time was then given to Mr O to provide more information regarding the solar panels before a formal repudiation letter was issued in early March 2023.

Looking at the timeline of the claim handling during this period, there were some small delays, which Fairmead acknowledged and apologised for. And given the solar panel activity was unlikely to have a bearing on the gas usage as set out above, some time may have been saved if this had been established sooner. But arguably, this should've been apparent to both parties. And given Mr O cited this as the reason for the low energy usage, I don't think it was unreasonable for Fairmead to explore it, just in case it made a difference.

So while there were some delays, I don't think these were significant. It seems that Fairmead's communication could've been better at points in the claim and Mr O was inconvenienced by having to chase it for information at what was understandably an already stressful time. To recognise the likely upset and inconvenience this caused, I'm minded to direct Fairmead to pay Mr O £200 compensation."

Fairmead accepted my findings. Mr O agreed the solar panels had no impact on his heating system and said that after a recent visit to the insured property he's now concluded the boiler hadn't in fact been working and so therefore wasn't heating the house.

But he was still of the mind that the pipe would've burst regardless of the heating being off. And he maintains he wasn't told about the claim decline until May 2023, by which point the damage had gotten worse and more costly to repair as Fairmead had told him on several occasions not to carry out any works at the property until it had reviewed his claim.

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, my decision remains the same as set out in my provisional findings. I'll explain why.

Mr O has now essentially confirmed that the heating at the property wasn't on as required. So I'm satisfied the policy condition in question wasn't complied with. While Mr O is still of the opinion that given the location of the pipe, it would've burst regardless of the property's heating, I've simply not seen enough supporting evidence to persuade me of this. So, for the reasons already set out in my provisional decision, I'm satisfied Fairmead has fairly declined Mr O's claim based on the information available to it.

With regards to the timeline of delays, the claim notes I've seen show the decision to decline the claim was communicated to Mr O's representative in February 2023 with a repudiation letter being issued the following month. Part of Fairmead's review of the claim was establishing Mr O's compliance to the heating condition. I've already explained in my

provisional decision why I don't think this is unreasonable, so I'm satisfied the time this added onto the claim process was unavoidable. The confusion regarding the solar panels may have added on more time, but I can't hold Fairmead solely responsible for this for the reasons already explained. And I didn't find any further significant delays.

Mr O thinks the compensation should be increased because he says Fairmead continually told him not to carry out repairs while the claim was under review, leading to increased costs. Most of the conversations he's referenced happened face to face and so I've not seen further supporting evidence of these interactions. Mr O says there may be a recording of the initial notification of loss call, but it wouldn't necessarily be unusual to hold off on repairs at the point of reporting a claim as it's very early on and the extent of the damage and cover available is still being identified. So this wouldn't change my conclusion.

From the information that is available to me, I'm satisfied Fairmead has fairly declined Mr O's claim and so it isn't responsible for the costs to repair the damage. There was some poor communication and avoidable delays on Fairmead's part, but I didn't find these to be significant for the reasons explained. So I'm still satisfied that £200 compensation is fair and reasonable in this case and so I won't be directing Fairmead to pay anything more than this.

I understand this isn't the outcome Mr O was hoping for and I do empathise with the situation he's in. But I'm satisfied my final decision is fair in all the circumstances of this case.

My final decision

For the reasons set out above my final decision is that I uphold this complaint in part. Fairmead Insurance Limited must pay Mr O £200 compensation*.

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

**Fairmead Insurance Limited must pay the compensation within 28 days of the date on which we tell it Mr O accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.*

Rosie Osuji
Ombudsman