

The complaint

Mrs H complains about Advantage Insurance Company Limited (Advantage), who declined her claim under her home insurance policy.

What happened

Mrs H noticed her boiler kept coming on and her gas bill was high, whilst she was away from her home. On investigation, she discovered she had a leak under her bathroom floor. She contacted an independent plumber, who attended and wrote a report. The plumber found a leak was located under the bathroom floor, in an inaccessible position. But there was no visible damage to the bathroom.

Mrs H made a claim against her policy she held with Advantage. During the claim investigation process, Mrs H informed Advantage she had previously made a claim for damage, caused by a leak under her bathroom floor in 2021, with a previous insurer. That insurer declined the claim.

In support of Mrs H's current claim, she submitted the report from the independent plumber, invoices and quotes for the work that was required in the affected area. As well as a quote for alternative accommodation, as she said she would need to move out whilst the work was being carried out. The work itself, included repairs to the leak, replacing the flooring and replacing the joists.

After reviewing the report from the independent plumber, Advantage spoke to him, to validate the claim. He said there had been previous issues with leaks in the area. He confirmed there had been two leaks. One was located under the shower unit (which was the earlier leak). The other, which was the subject of the current leak, in the middle of the bathroom. He also confirmed it was his opinion, that no previous joists had been replaced by the shower, given the substantial rotting and the floor movement. He confirmed that regarding the current claim, there was no evidence of damage, apart from the leak repair. He said the joists were undamaged but needed drying out.

Due to this, and information Advantage had obtained from Mrs H's previous insurer, it declined her claim. Advantage believed Mrs H had been aware about the ongoing issue with the leak under the shower. And she knew there was substantial pre-existing damage to the joists in that area. It felt her claim included repairs for unrelated damage which wasn't caused in the current claim and had been pre-existing for some time. It referred Mrs H to the policy terms and conditions regarding acting in a fraudulent manner. And repudiated her claim and cancelled her policy.

Mrs H complained to Advantage, as she said she'd provided evidence that she had the joists changed. And because her previous insurers had told her the claim would be declined, due to faulty shower seals, she had updated her bathroom at a cost of £8,000, which she had paid for. In its final response, Advantage maintained its position and as Mrs H had been given her referral rights, she referred a complaint to our service.

An investigator considered the complaint and thought it should be upheld. He said he wasn't persuaded that Advantage had shown it could fairly decline the claim or cancel the policy based on the policy terms. As Mrs H had told Advantage about the previous claim - when she contacted them. Also, as Mrs H had replaced her whole bathroom, he said it was reasonable to assume she had replaced the joists and any previous damage. So, Mrs H wouldn't have been aware the issue hadn't been resolved. He felt Mrs H would've obtained a quote for all the damage because she believed she would be covered. His view also was, that Mrs H would've suffered from stress and inconvenience by having the policy cancelled and the claim repudiated. For this, he recommended Advantage pay compensation of £200 to Mrs H.

Mrs H accepted the view, Advantage did not. It provided an extensive list of why it believed that Mrs H's actions were fraudulent, and it asked for a decision from an ombudsman.

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 considered the complaint, and I thought the complaint should not be upheld. I issued a provisional decision on 9 January 2024 and asked both parties to send me anything else by 6 February 2024. In my provisional decision I said:

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of the complaint.

Having done so, I'm minded not to uphold this complaint. I understand this is likely to be a disappointment to Mrs H, but I hope my provisional findings explain why I think this is fair.

I have considered all the evidence both parties have submitted. I think the main issue of this complaint is whether Advantage was fair and reasonable to decline the claim on a policy term.

I've listened to the call recording between Mrs H and Advantage took place before the call between it and Mrs H's independent plumber. And in the call, she was asked to outline what the circumstances of the claim were. I think it would be helpful to summarise what Mrs H told Advantage during the call.

Mrs H explained she had been on holiday, and she had turned everything off whilst away. She noticed the boiler was coming on and was using gas. When she returned her partner noticed there was a hissing sound coming from the bathroom. She got a plumber in, who found a leak in the hot water pipe. The pipe was disconnected, which meant she was without hot water in a few areas in her home. She reported the leak to Advantage, and it sent a loss adjuster. She said the loss adjuster told her the damage needed repairing and noted the damage. She said she hadn't heard from the loss adjuster again. So complained to Advantage as she wasn't happy with the loss adjuster, it appointed.

She explained Advantage advised her to get quotes for repairs and a cash settlement could be made. She then undertook obtaining the quotes, from builders, plumbers, and floor specialists. She also got a plumber to repair the leak and she paid for this.

Advantage queried the building quote as it had included the replacement of joists. Mrs H confirmed one of the items on the quote related to the replacement of joists. She explained

she required a builder to replace the joist, a plumber to undertake the plumbing work and a floor specialist to take up and relay the specialist flooring.

Mrs H was then asked about the previous claim that she had made, with her last insurer. She explained she had had a leak like the one she had reported. In that it caused damage under the flooring in her bathroom. An assessor came to investigate it and said the damage was caused due to faulty shower seals, so the claim wasn't covered. She then repaired the bathroom herself, had a new bathroom fitted, which she paid for.

Mrs H further explained underneath the shower was where new joists were installed. She said this current leak was in another part of the bathroom and had caused the joists to become rotten and mouldy and they needed to be replaced.

Advantage asked Mrs H if she had any invoices that could provide information as to what work she had had done. She said she hadn't kept any invoices of the work she had carried out. Later in the conversation Mrs H re-confirmed the joists had been replaced where the shower was located and not the whole bathroom. She said during the renovations she had moved out so wasn't at home every day, to see what was being done, but she was pleased with the tradesmen's work.

From the evidence, I can see that Advantage contacted Mrs H's previous insurers and the information it provided, indicated there had been two previous claims (not one as Mrs H had said). The first claim related to a water leak on 17 July 2020. The claim was withdrawn due to a lack of response from Mrs H. The leak was reported to have occurred under the shower. The floor had rotted and collapsed. The leak had been undetected as the building was a single storey building.

The second claim was on 26 June 2021, it was reported there was a water leak under the shower, and this caused rotten and collapsing floor and joists, which all needed replacing. This claim was declined, as the assessor said damage was caused due to faulty shower seals.

I've reviewed the screenshots Mrs H provided about the work she had done in July 2021. I can't see that there is any information regarding joists having been replaced. But in any event, the two claims Mrs H reported to her previous insurers, related to leaks under the shower. I note Mrs H only reported one of the claims to Advantage.

In addition, the plumber Mrs H engaged and who wrote the report, provided information that no joists had been replaced. He also confirmed he was aware Mrs H had previously had the same issues, in the area. And she had had three-bathroom refits because of this. But in his opinion, the joists had never been replaced. He also stated the joist damage had caused the shower floor to move and was noticeably 'spongy', when stood on.

I think that it was more likely than not, the plumber who attended and carried out the preliminary investigations to diagnose the leak, would've told Mrs H about his findings. The plumber said in his dealings with Advantage the leak related to the current claim, caused no damage to the joists and those joists didn't need replacing. He said the leak needed repairing but the only other job required was drying in the area.

The plumber also highlighted the floor was noticeably spongy as it moved when stood on. I think it was more likely than not, this would have alerted Mrs H there was an issue, given the obvious movement in the floor.

Further, Mrs H confirmed the independent plumber had attended her home before she made the claim with Advantage. The only photos she provided regarding new joists were taken in

February 2023, which followed the independent plumber's report and was after the current claim. There was no other evidence Mrs H provided that supported that she had changed the joists previously.

Under the policy terms and conditions, Mrs H had a duty to provide information to Advantage was factually accurate. The relevant term states a customer must not:

'Knowingly provide information to us that is not true. Deliberately mislead your insurer or us in any way in order to get insurance from us, obtain more favourable terms or reduce your premium, or gain an improper advantage from a claim. Make a claim under the policy knowing it to be false or fraudulently exaggerated in any respect'

I can see the work estimates Mrs H provided to Advantage, included work that was unrelated to the leak (in addition to work for the current leak) for instance replacing the joists.

Based on the evidence I've read, currently I'm not persuaded Advantage were unreasonable or unfair to decline Mrs H's claim. I'm satisfied it's more likely Mrs H made a claim which she knew to be false or fraudulently exaggerated. It has shown it was more likely than not Mrs H was aware of the pre-existing damage, and that damage was unrelated to the claim she made with Advantage.

Consequently, I think Advantage was also fair to cancel Mrs H's policy, in the circumstances.

I acknowledge Mrs H's strength of feeling about this complaint and it likely to be a disappointment. But, in the overall circumstances, I currently haven't seen enough evidence to show that Advantage acted unfairly or unreasonably by declining Mrs H's claim or cancelling her policy. If Mrs H has further evidence that is contrary to this, I will of course consider it. But for now, I intend not to ask Advantage to do anything further here.

Responses to my provisional decision

Mrs H made several points which I summarise as follows:

- She felt the provisional decision was based on fraud and said she wasn't fraudulent in making the claim.
- She said she was a widow living alone and all the advice she had been given was based on information from tradesmen.
- She said her contractor only attended her property twice and his report would have only been based on opinion.
- She questioned why the call between her contractor and Advantage hadn't been disclosed, even to her contractor and felt it should be. She believed it was unlawful for Advantage not to have disclosed the recording to her contractor, despite her belief he had requested the recording on a few occasions.
- She said as Advantage had claimed her contractor told Advantage the joist could dry out and not need to be replaced, this was contrary to the information she had obtained from another contractor the joist would need to be replaced, as there could be dry rot. This was information she said she passed on to Advantage.
- She confirmed the claim was for the replacement of one joist not more than one.
- She relied on the loss adjusters report and said it supported her position.
- She felt there had been a misunderstanding as to where the damage occurred.

I have carefully considered the additional comments made by Mrs H and they haven't changed the outcome as indicated in the provisional decision, so I'll explain why.

Mrs H requested a copy of the call between her contractor and Advantage. I asked Advantage whether it would object to the recording being released. It said it had no record from Mrs H's contractor of him ever requesting a copy of the recording. And as there was no permission from the contractor to disclose the call, it was unable to do so. In any event, it said in the provisional decision, details of the call had been disclosed.

In Mrs H's responses, she believes the provisional decision was based on 'inference' and 'conjecture' and she has included her own definition of fraud. However, the provisional findings were also based on Mrs H's breach of her policy terms and conditions, rather than her interpretation of fraud. Specifically, the term that I'm persuaded that Mrs H breached was:

'The customer must not: knowingly provide information to us that is not true. Deliberately mislead your insurer or us in any way in order to get insurance from us, obtain more favourable terms or reduce your premium, or gain an improper advantage from a claim. Make a claim under the policy knowing it to be false or fraudulently exaggerated in any respect.'

Mrs H now suggests her contractor's involvement should now be seen as quite limited. So, I've reviewed this further. Mrs H's contractor attended to ascertain whether there was a leak. I understand Mrs H now says she was told by her contractor, he was unable to undertake the work as he now delegate's work. But from the call recording between Advantage and the contractor, he said the reason he was unable to take on the work, was because he was fully booked.

Mrs H's contractor provided a detailed history about Mrs H's bathroom, which indicated he was aware of the state to the area and must have had some level of experience/knowledge about the bathroom. Also, Mrs H's contractor gave a detailed description of the damage had occurred, which I think showed he must have either inspected the area or provided the information. Or he obtained the information from Mrs H. Either way, I think it's unlikely that Mrs H's contractor only had a cursory knowledge about the bathroom and the damage.

Mrs H now suggests another contractor who she appointed after the claim had been declined, has advised her the joist would need to be replaced, to prevent dry rot. This as far as I can see from the evidence, hasn't been previously mentioned. Further, Mrs H's first contractor was clear in his opinion (pre-decline), the joist didn't need to be replaced as there was no damage to it. It merely required it to be dried out. So, having considered everything, I'm more persuaded by the first contractor's assessment of the damage, the leak claimed for didn't cause damage enough for joists to need to be replaced.

Mrs H raised the loss adjuster sent by Advantage supported her position. There are several areas of the report, where the loss adjuster has stated they are unable to confirm the peril, due to the limited access to the leak. Moreover, it mentions the claim would need to be referred to Advantage, as the loss adjuster was aware of the two previous claims made by Mrs H were similar in nature, to the current claim. So, I can't agree the report substantially supports Mrs H's claim. Not only because of the limited nature of the information it wasn't able to gather, but also because the advice it gave was for the claim to be referred to Advantage for further consideration.

Advantage said Mrs H must have been aware about the history of her bathroom (given she has made attempts to repair it). Yet she only provided information relating to one previous claim, when its investigations, it found there were two. In addition, it said Mrs H's contractor was aware of the previous issues with her bathroom, and he was aware it had had a few re-fits. Further, Mrs H confirmed her contractor had attended her home before she made the

claim with Advantage. The only photos she provided regarding new joists were taken in February 2023, which followed the independent plumber's report and was after the current claim. There was no other evidence Mrs H has provided that could support she had changed the joists previously.

Whilst I sympathise with the position Mrs H finds herself in, I think Advantage has provided enough evidence to show it was more likely than not, Mrs H would've known of the pre-existing damage under the shower. And on discovering the new leak in a separate area of the bathroom (which according to her expert caused no damage to the joist) made a claim for the repairs of the previously damaged joist. Mrs H also failed to disclose an accurate claims history. Consequently, I can't agree that Advantage was unreasonable or unfair to decline her claim and cancel her policy.

My final decision

For the reasons given, I don't uphold Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 22 March 2024.

Ayisha Savage
Ombudsman