

The complaint

Miss P complains HDI Global Speciality SE failed to complete repairs, made under her home insurance policy, to a reasonable standard.

HDI's been represented by agents during the claim. For simplicity I've generally referred to the actions of the agents as being those of HDI.

What happened

In 2017 Miss P made a claim against her HDI home insurance policy. Her drive had collapsed in areas. HDI accepted the claim under the accidental damage cover provided by her policy. In 2018 HDI's contractor installed a new block paving drive.

From early 2021 Miss P's home insurance was provided by another firm. In November 2021 Miss P notified HDI that areas of the new drive had sunk. She felt the insurer had failed to complete the 2017 repairs to a reasonable standard. She and HDI arranged various inspections to identify the cause. The possibility of being drains or leaking pipes was ruled out. HDI didn't accept responsibility for the problem.

Miss P wasn't satisfied so complained. HDI appointed an engineer to consider the cause of the damage. I'll refer to him as E. Based on E's report HDI didn't agree to repair the drive. It didn't accept the damage to be caused by poor workmanship in 2018. It said rainwater had carried particles of sand and the sub base into a drain. This has removed support in the affected areas.

HDI added that if this cause of damage had been known in 2017 the claim would have been declined. But it said it wouldn't be looking for reimbursement of those claim costs. HDI didn't consider the cause of damage to be covered by Miss P's policy. So it didn't offer to repair the driveway.

Miss P wasn't satisfied, so came to this service. She would like HDI to rectify the problems with the driveway. Our Investigator didn't recommend HDI do that or anything else. He was persuaded by E's evidence that the current problem wasn't the result of poor workmanship when HDI installed the driveway in 2018. Miss P didn't accept that outcome. So the complaint was referred to me.

I issued a provisional decision. As its reasoning forms part of this final decision I've copied it in below. I explained why I intended to require HDI to provide a lasting and effective repair to Miss P's drive and pay her £400 compensation. I also invited both to provide any further submissions for me to consider before issuing this final decision. Mrs P didn't provide any further evidence or comments about this complaint. HDI asked that I reconsider my proposed outcome. I've addressed its key response points below.

what I've provisionally 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.

As this is an informal service I'm not going to respond here to every point or piece of evidence Miss P and HDI provided. Instead I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted.

Miss P's complaint can be summed up as – in 2018 HDI failed to make a lasting and effective repair to her drive. I expect insurers to indemnify a policyholder by carrying out an effective and lasting repair. To be effective a repair must fully put right the damage claimed for. To be lasting it must do so for an appropriate amount of time. That time will vary depending on the item. But I think it's reasonable to expect repairs to a drive to last for longer than two or three years.

HDI doesn't seem to accept it did fail to provide a lasting and effective repair. It says there wasn't any faulty workmanship. This is based on E's assessment that standard depth of foundation was used for the drive. HDI's position is that instead of there being a problem with its work, the current damage is simply a reoccurrence of the 2017 loss.

Importantly HDI says had it known the correct cause of damage in 2017 the claim would have been declined. I'm going to put this to one side for now. Instead I'm going to first consider the most persuasive evidence on the cause of the current damage - E's report from September 2022.

E was asked by HDI to investigate the underlying cause of the initial collapse (as claimed for in 2017) and consider whether the current damage (notified in 2021) is resultant from an episode of subsidence or whether there is a different cause – with consideration given to the possibility of faulty workmanship.

E's report concludes that there's no evidence of poor workmanship. Two factors seem to persuade him of this. The drive foundations being of standard construction. The absence of apparent damage in the first two to three years.

The report identifies the cause of the most significant current depression in the drive. It says rainwater appears to have been driven across the effectively flat block drive. It then comes up against the impermeable front elevation of the house. It collects at this point.

According to E this water then drains to the most permeable area of the front elevation. This being a granular surround to a foul pipe. The water then carries particles from the sand and sub base from beneath the block paving. Through this process support to the blocks is removed, resulting in depressions.

E's report sets out suggested remedial works. This involves lifting and relaying areas of blocks with new sub base and sand. Importantly E recommends, to prevent a future occurrence of the damage, a channel drain be installed between the house and the drive.

Having considered this it seems to me that if, as HDI says, the current damage is a reoccurrence of the earlier problem then HDI did fail to make a lasting and effective repair in 2018. If, for a lasting repair to be made now, a channel drain is required then it seems one was also required in 2018. And the drive is as it is now as HDI failed to install one back then.

Even if it isn't the same cause it seems to me that the drive, installed in 2017, wasn't an effective repair. It wasn't provided with an effective method of drainage.

This brings us back to HDI's argument that had it known the correct cause back then it wouldn't have accepted the claim. It follows it wouldn't have undertaken any repair at all. I've considered this point.

I accept it may be possible the terms of the policy would have allowed HDI to decline the claim and that it may have done so. Although I haven't been provided with the relevant terms, only a 2020 version. But on the other hand, it's possible it would have accepted the claim.

However, that can't be known now. It can only be speculated upon. But we do know some facts. These are that HDI had a chance to investigate the claim. It went on to accept it. It then agreed with Miss P that it would settle the claim by repairing the damage.

As I've said, when an insurer does that, I expect it to carry out an effective and lasting repair. I've explained why I don't think it did. And I don't think it's fair or reasonable for HDI to now try to turn the clock back to allow it to wash its hands of an inadequate repair.

So to provide a lasting and effective repair to the damage Miss P claimed for in 2017, and it accepted liability for, I intend to require HDI to undertake the remedial works recommended in E's report. This will include lifting and relaying with the renewed sub base in the large depression area and the blocks to the front of the garage – plus installing a channel drain as outlined by E.

However, I don't intend to require HDI to make good two small depressions. E's report finds these to be a common feature, on the type of paving, caused by the weight of vehicles. Based on what I've seen so far, I'm satisfied by that explanation. I don't currently consider them to be the result of a failure to provide an effective and lasting repair.

I can this see episode has caused Miss P's some avoidable distress and inconvenience. First of all, the failure to provide an effective and lasting repair, has resulted in her having to pursue various routes to find a solution. During at least a couple of years she's had to deal with different agencies and firms.

Miss P's reported an injury she feels was caused by the condition of the drive. I can't say if the injury did result directly from HDI's failures. But it seems the condition of drive likely played some part. I've also considered that, despite the problems, Miss P's been able to use the drive.

So to recognise the impact of HDI's failure to provide a lasting and effective repair and accept responsibility for the situation I intend to require it to pay Miss P £400 compensation.

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.

HDI provided some detail about the previous understanding that drains were the cause. It repeated its point that the claim would have been declined in its entirety had the correct cause of damage been known at the time – providing relevant policy terms in support. It added that, anyway, had it ‘incorrectly’ accepted the claim it wouldn’t have covered the cost of installing a drainage channel – as that would be considered a preventative measure.

I’ve considered everything HDI’s said, but it hasn’t changed my position. As I said in my provisional decision, the fact is, HDI investigated the claim. Having done so it accepted it. It chose and agreed to settle by repairing the damage.

But it didn’t, as would be expected, make a lasting and effective repair. Instead it provided a replacement that had the same design problem as the original – a lack of drainage channel. That may be preventative work – but I’m satisfied that in this case its necessary to provide a lasting and effective repair. So its fair to include it in the repair.

HDI may now regret its investigation and agreement to repair the damage. But as I’ve said it’s not fair for it to try to turn back the clock. The fair outcome, in the circumstances, is for it to fulfil its agreement to repair the damage. That means providing a lasting and effective repair. And for that a drainage channel is necessary.

So to provide a lasting and effective repair to the damage Miss P claimed for in 2017, and it accepted liability for, HDI will need to undertake the remedial works recommended in E’s report. This will include lifting and relaying with the renewed sub base in the large depression area and the blocks to the front of the garage – plus installing a channel drain as outlined by E.

My final decision

For the reasons given above, I require HDI Global Speciality SE to:

- provide a lasting and effective repair to Miss P’s drive by taking the steps set out above and
- pay her £400 compensation.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss P to accept or reject my decision before 5 March 2024.

Daniel Martin
Ombudsman