

The complaint

Mr A complains about how HDI Global Specialty SE handled and settled a claim he made under his home buildings insurance policy for damage caused by water ingress.

What happened

Mr A held a buildings insurance policy with HDI. There's no contents or accidental cover included within the policy.

On 24 July 2023, Mr A observed water ingress into his kitchen following a period of excessive rainfall. He stated that during periods of heavy rainfall water would enter his kitchen via the wall adjoining the neighbouring property. He also stated water would seep through the grout on the tiles within the kitchen. And he said this all caused extensive damage to the kitchen area.

On 27 July, Mr A contacted HDI and informed it that he wanted to report a claim under the policy for damage to his property. Mr A paid a £350 excess and his claim was initiated.

HDI instructed a company, which I'll refer to here as "P", to undertake a leak detection survey in order to investigate and determine the cause of ingress into the kitchen.

P attended Mr A's property on 3 August 2023 and observed extensive mould within the kitchen. Following a detailed leak detection survey, P stated the ingress was due to damaged flashing around the soil stack as it enters the tiled roof above the kitchen. It said this was causing water to penetrate into the kitchen. P explained that ingress was also due to gutters, which had become blocked as a result of poor maintenance by Mr A's neighbour.

P provided its report to HDI on 4 August 2023 and, following receipt of this, a decision was taken to appoint a loss adjuster, which I'll call "C" here, to assist it in overseeing the claim. C visited Mr A's property on 16 August 2023. C noted the opinion of P that the cause of ingress was due to failed flashing and blocked guttering. So, it asked HDI whether it could consider settling the claim under the accidental damage peril. C also informed HDI that, after undertaking a value at risk assessment and consulting the BCIS rates, the buildings sum Mr A had insured his property for appeared to be inadequate. It was therefore concerned in relation to under-insurance.

Mr A was informed he'd misrepresented the rebuild cost of his property significantly. This was due to the type of material that had been used to construct the building. However, he was subsequently advised that the claim wouldn't be declined based on misrepresentation.

On 21 September 2023, Mr A provided repair quotations to HDI. Subsequently, an offer of settlement was made by HDI, which took into consideration a contribution towards the undamaged items within the kitchen and a deduction to reflect the degree of under-insurance.

On 5 October 2023 C wrote to Mr A on behalf of HDI informing him that his claim had been declined. It also explained that the previous offer of settlement had been withdrawn as

damage caused by the escape of water from guttering was excluded under the policy and the damage caused by failed flashing was gradual in nature.

Being dissatisfied with how HDI had dealt with and progressed his claim Mr A complained. He was unhappy with how C had provided input into the claim and felt the claim had been declined due to personal reasons. He disagreed that the damage had occurred gradually and disputed that failed flashing and guttering had caused ingress into the kitchen.

On 17 November 2023, HDI issued its final response to Mr A's complaint. It explained that the cause of damage had been appropriately identified and had led to a correct decision to decline the claim due to exclusions under the policy. It also explained that C hadn't acted improperly in identifying that the rebuild cost had been incorrectly declared by Mr A at the inception of his policy. However, it explained that an error in the postcode being noted had led to the rebuild cost being incorrectly inflated by £10000. It stated that when the error was corrected Mr A's property was still significantly under-insured. But this hadn't been the reason why the claim had been repudiated.

HDI acknowledged that there'd been a delay of around 6 weeks in the repudiation decision being communicated to Mr A. It apologised for that and offered to compensate Mr A in the sum of £200 for the distress and inconvenience this had caused.

Being dissatisfied with HDI's response to his complaint, Mr A asked our service to investigate what had happened. Our investigator assessed this complaint and, while they empathised with Mr A, didn't recommend upholding it. They thought HDI had acted reasonably and in line with the policy terms and they thought the compensation offered in relation to the delay and service issue was reasonable. HDI accepted our investigator's view of this complaint. But Mr A didn't. So, I've been asked to decide the fairest way to resolve this complaint.

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'm aware that I've summarised the events of this complaint. I don't intend any discourtesy by this - it just reflects the informal nature of our service. I've concentrated on what I think are the key issues. I can assure Mr A and HDI that I've read everything that they've provided. So, if I've not mentioned something it's not because I haven't considered it. It's just that I don't think I need to comment on it in order to reach what I think is a fair and reasonable outcome.

I'm sorry to learn of the difficulties Mr A experienced after he notified HDI that he wanted to make a claim under his policy. I'm sure he thought, at the start, the claim was all going to be sorted out with minimal fuss. But that didn't happen and it's clear from the information he's provided our service that he's very unhappy with the way in which HDI dealt with his claim.

This service is an informal dispute resolution service. When considering what's fair and reasonable, I'm required to take into account a number of matters, which include relevant law and regulations, regulators' rules, guidance and standards, codes of practice, the terms and conditions of any insurance policy and, where appropriate, what I consider to have been good industry practice at the relevant time. I'm not limited to the position a court might reach.

The crux of this complaint is whether HDI treated Mr A fairly, in how it dealt with his claim. And I'll explain why I think it has. There are several parts to this complaint and I think it will make things clearer if I deal with each issue separately.

Was the cause of ingress a storm?

I've indicated in the background to this complaint that Mr A disputes that the cause of ingress was damaged flashing and blocked guttering. Instead, it appears he believes the damage was caused by adverse weather.

Mr A's policy with HDI provides cover for damage caused by a range of perils that might happen. These are specific one-off events and include storm, for example. But, for a claim to be successful, Mr A would have to show that the damage he'd claiming for was caused by one of the perils listed in his policy.

There are three conditions that need to be met before this service would say a claim for storm damage should succeed. Those are:

1. Is there evidence that there was a storm around the date of the damage?
2. Is the damage consistent with what we would normally consider storm damage?
3. Was the storm the main cause of the damage?

I have re-assessed Mr A's complaint and all the evidence with these three questions in mind. And I should also clarify that the answer to all three questions needs to be 'yes' for this service to be able to recommend that a storm complaint is upheld.

In weighing up the first question, I can see that Mr A's policy doesn't define the word 'storm'. This isn't unusual. And in that scenario this service takes the view that a storm generally involves violent winds, usually accompanied by rain, hail or snow. So, this is what I've thought about when deciding whether there were storm conditions on or around the date of Mr A's claim.

Mr A has pointed to a storm that occurred on around 24 July 2023, which he thinks was the date damage was caused. I've checked the weather reports relevant to Mr A's locality for storm conditions and these show that, at around the time the damage occurred, the highest wind speeds recorded were 24 mph with a maximum hourly rainfall that isn't sufficient to be classified as a storm.

I'm sorry to disappoint Mr A but the weather recorded doesn't meet the conditions of what our service would consider to be a storm. And this means I haven't seen enough evidence to persuade me that storm conditions existed at around the date of the damage.

As I've been unable to answer question one affirmatively I can't fairly conclude that the damage to Mr A's property was caused by a one-off identifiable storm event as his policy requires. And this means I can't direct HDI to pay a claim for storm damage.

What was the likely cause of the damage?

I've carefully considered the content of P's leak detection survey. Its report is 23 pages in length and contains numerous photographs that depict the condition of Mr A's property. The report also provides a fully detailed rationale as to the cause of ingress.

Having weighed up all the evidence, I'm satisfied P's conclusions are comprehensible and robust. The photographs included within the report support its opinion on how damage to Mr A's property was caused.

I understand that Mr A was invited to obtain and share an expert report on the cause of damage to refute P's opinion. He hasn't disclosed such a report with our service. And so, I

am only able to assess this complaint based on the available evidence. In the overall circumstances I'm satisfied that the cause of ingress is damaged flashing and blocked guttering as P identified in its report.

Is the cause of ingress covered under the policy?

The terms of Mr A's insurance policy with HDI outline the limitations of cover very comprehensively. It's clear from the policy terms that *"loss or damage caused...by the escape of water from guttering, rainwater down pipes, roof valleys and gullies"* is excluded under the policy.

This clause means that if damage is caused as a result of blocked guttering, as has been evidenced here for the reasons outlined above, there is no cover under the policy. It follows that there are no grounds whereby I can direct HDI to settle the claim.

HDI also seeks to rely on a general exclusion in repudiating Mr A's claim. Under the terms of Mr A's policy, where damage occurs as gradually or as a result of wear and tear HDI is entitled to repudiate a claim. Mr A might think this is unfair, but this exclusion clause is in common with most home insurance policies. This is because insurance is intended to cover the unforeseen, and gradual damage isn't unforeseen.

The photographs within P's report were taken on 3 August 2023 – around 10 days after the damage Mr A reported. However, the images depict extensive mould and water related damage within Mr A's kitchen. For water ingress to have caused such damage, it must have been occurring over a period of time. I don't think it happened since 24 July 2023.

As I'm satisfied the damage to the kitchen has been occurring gradually, I think it ought to have been evident sooner to Mr A than the point at which he reported it to HDI. I'm sorry to disappoint him but I'm not persuaded the mould developed within a short period following the ingress of water.

In the overall circumstances of this complaint, I'm satisfied HDI is entitled to repudiate a claim under the policy. The damage hasn't occurred because of a one-off insured event, which is what his policy requires. So I think HDI applied the policy terms reasonably in declining this claim. And this means it would be unfair to require it to pay Mr A's claim.

Use of C and its input

Mr A has complained about the input C provided in assisting HDI with this claim. It's clear from Mr A's submissions, he thinks C behaved in an unprofessional manner that was biased against him. He believes his claim was repudiated for personal reasons. And it appears Mr A believes HDI appointed C for the purpose of finding grounds to decline the claim.

I can understand why Mr A may view the use of a loss adjuster negatively, particularly in circumstances where his claim was subsequently declined. But our service thinks it's right for an insurer to instruct a loss adjuster with expertise to inspect a policyholder's property to assist it in determining the cause of damage – particularly in a case where substantial damage has been caused to a property. I'm not seeking to undermine how Mr A says he felt, but there's no evidence here that indicates C acted in an unprofessional or unfair manner when dealing with this claim.

Based on the evidence I've seen, C appropriately took P's opinion into account in relation to the cause of ingress into the kitchen. It correctly referred to the policy terms and identified that the cause of damage was, unfortunately, excluded under the policy.

I can see that, prior to declining the claim, the loss adjuster recommended that HDI consider settling the claim under the accidental damage peril. I'm persuaded this is evidence of a loss adjuster that trying to positively and proactively progress a claim.

As I mentioned in the background to this complaint, C informed HDI it had concerns relating to under-insurance. I can appreciate why this may have felt personal against Mr A. However, C was under a duty to report any concerns about misrepresentation or under-insurance to HDI. So, I'm satisfied that, in executing that duty, C didn't do anything wrong.

I understand that Mr A is unhappy that C wrote to him informing that his claim had been declined. However, it isn't unusual for a loss adjuster to write to a policyholder on behalf of an insurer to explain the outcome of a claim. I'm not persuaded there was an error here in HDI delegating that task to C.

Under-insurance

When Mr A incepted his policy with HDI he was asked to confirm the rebuild value of his property. The policy schedule I've seen confirms that he declared the rebuild value to be £500,000.

HDI and C have refuted Mr A's valuation and explained that he has under-insured his property by significantly misrepresenting the value of the building. They say the rebuild value is £934,000 – almost double the amount Mr A declared. This amount was initially inflated by £10,000 as a result of a typographical error with the postcode. However, even with the error remedied, the rebuild value is substantially more than the sum Mr A insured.

I recognise Mr A's strength of feeling on this issue. But I've seen evidence provided by HDI that proves that the BCIS reinstatement calculation supports its contention that it would cost £934,000 to rebuilt Mr A's property were this to be necessary. BCIS is a recognised authority that produces detailed guidance on the cost of rebuilding houses. I'm therefore persuaded that I can rely on the valuation BCIS provided as being accurate and correct.

HDI was entitled to consider whether under-insurance affected the viability of the claim. And it was fair and reasonable for it to inform Mr A of its concerns relating to potential misrepresentation. However, the policy wasn't avoided and the claim wasn't declined based on under-insurance by Mr A. As I've already explained, Mr A's claim was declined based on exclusions within the policy.

Delay and poor service

I've carefully considered the chronology of this claim having been assisted by HDI's helpful timeline of events.

P was appointed the day Mr A reported his claim to HDI. I'm satisfied P was instructed promptly and at the earliest opportunity. It attended Mr A's property on 3 August and submitted its detailed report to HDI the following day. I'm persuaded there was no delay on P's part and that P facilitated the claim being progressed in a proactive manner.

After P provided its cause of damage report to HDI, it instructed C. This occurred on 7 August 2023, which was the next working day following receipt of P's report. I'm satisfied C's appointment was put in place at the earliest opportunity.

C visited 9 days post instruction. But I can see it attempted to contact Mr A the day it was appointed. And, as it hadn't been able to speak with Mr A on 7 August 2023, it contacted him again the following day. On that occasion it was successful and an appointment for a site

visit on 16 August was arranged. I can't fairly find that this was not prompt and proactive action on C's part.

It appears from the available evidence that the repudiation decision could have been communicated to Mr A from 23 August 2023 onwards. However, C didn't inform him of the outcome of his claim until it wrote to him on 5 October 2023.

HDI has acknowledged there was a delay of 6 weeks in sharing its declinature decision with Mr A. During that time it's clear Mr A submitted quotes for reinstatement work, an offer of settlement had been made and he expected his claim to be met by HDI. It's clear Mr A had an expectation that his claim would be settled in his favour. That was unfair.

The expectation of Mr A and delay in informing him of the outcome of his claim constitutes poor service. The claim could have been progressed more proactively during that time and this caused avoidable delay and unnecessarily protracted the claim for Mr A.

HDI has offered to pay Mr A £200 compensation for the trouble and upset that delay caused. I've thought about whether the compensation paid is fair and reasonable to also encompass the expectation Mr A had that his claim would be settled.

When deciding what potential compensation to award I must take two things into account: financial loss as a result of any business error and non-financial loss, including inconvenience and upset.

Mr A hasn't shared any evidence to show that he incurred a financial loss as a result of what happened. So, I can't make a compensation award here that covers financial loss.

When considering awards for non-financial loss there isn't a set formula that we use to calculate awards for particular errors. It's my role to consider what impact the business' actions have had on the consumer and to decide, within guidelines set by our service, whether compensation would be appropriate in the circumstances.

It's clear that Mr A was caused trouble and upset as a result of thinking his claim would be settled and the delay in finding out that his claim had been declined. He was inconvenienced by what happened and I don't doubt he would've been very frustrated.

I'm satisfied that an award of compensation is appropriate to reflect the inconvenience Mr A experienced. And having considered the trouble and upset Mr A is bound to have experienced here I'm satisfied that amount already offered by HDI is in line with our approach in similar scenarios. I haven't seen enough evidence to persuade me that a higher award is warranted here. So, I'm not intending to ask HDI to increase the compensation it offered to pay Mr A to resolve his complaint.

I appreciate that Mr A feels very strongly about the issues raised in this complaint. But I'm satisfied that HDI has taken appropriate steps to resolve this complaint. So, I'm not going ask it to do anything more. This now brings to an end what we, in trying to resolve Mr A's dispute with HDI informally, can do for him. I'm sorry we can't help Mr A further on this.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 6 May 2024.

Julie Mitchell
Ombudsman