

The complaint

Mr S and Miss W complain that Liverpool Victoria Insurance Company Limited trading as LV= (LV) unfairly declined a claim on their home insurance policy following an escape of water.

What happened

Mr S and Miss W discovered a lot of water coming through their kitchen ceiling from the room above. They didn't know what to do but remembered their neighbour was a retired plumber. A hole was cut in the ceiling to gain access. And the bath panel upstairs was removed, unfortunately causing some damage. The fault was traced to a corroded washer in the flexi-pipe connected to the bath. The neighbour replaced the part and the leak stopped, with no further escapes of water.

Mr S and Miss W said they'd paid over £700 to repair the damaged ceiling and now need to replace the bathroom furniture and redecorate. They were told there might be an asbestos issue which caused great concern as they have a young family. But LV offered no help and has now declined the claim, causing them significant distress. They're unhappy with the way the insurer dealt with things. It was the first time they'd ever made a claim. And they'd like LV to reconsider their evidence.

LV said it'd declined Mr S and Miss W's claim due to an exclusion noted in the home insurance policy. It said the failed bath seal was a likely contributing cause to the ceiling damage as the seals failed under testing. LV also noted there was no fixed screen fitted. The curtain used had the potential for allowing overspill to reach the floor area.

LV said it couldn't confirm or deny if Mr S and Miss W had found and repaired a leak in a pipe joint. It could only comment that other factors were the likely contributors to the damage.

Mr S and Miss W weren't satisfied with LV's response. So they contracted our service and our investigator looked into the matter. Based on what she'd seen our investigator didn't think LV had acted fairly. She did think it was reasonable that LV hadn't relied on Mr S's evidence. Although the neighbour's expertise had been acknowledged, his report lacked detail and persuasiveness as to why the pipe was the cause of the leak. And it was the customer's duty to prove the validity of their claim.

But LV hadn't responded to the images and videos depicting the leak, which Mr S felt repudiated LV's argument. LV had relied solely on its own supplier's report. But the videos and images suggested the damage couldn't have been caused solely by the failure of the bath seal or shower shield. And our investigator felt the pipe was the more probable cause.

Our investigator wasn't persuaded LV had fully considered Mr S and Ms W's position. And she didn't find any compelling evidence to challenge what they'd provided. So she felt the claim had been unfairly declined. And LV should pay the cost of repairs, as detailed by Mr S, and pay 8% interest from the date repairs were completed.

There'd been considerable persistence shown by Mr S and Ms W in seeking answers from LV. And she felt LV should pay £300 compensation for the distress they'd suffered. Mr S had also expressed concern about potential asbestos exposure during the period of dispute. And if he was able to provide evidence to support any adverse effects it would be fair and reasonable for LV to consider it.

Mr S and Ms W accepted our investigator's view. But LV didn't agree. It said it had acted correctly in relying on the evidence of its expert. The sealant around the bath was very poor and absent in places. And mould in the gaps indicated this had been an issue for some time. So it's asked for an ombudsman's final decision.

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.

LV and Mr S have provided conflicting statements about what they consider caused the damage. This impacts upon whether the claim is covered by the home insurance policy, or whether the claim should be declined due to one of the exclusions noted in the terms and conditions.

The home insurance policy provides cover for damage caused by water leaking from any fixed tank, domestic appliance or pipe. But like all policies there are exclusions that limit or exclude the damage the insurer would be liable for. The policy excludes damage caused by failure, wear and tear or lack of grouting or sealant. But for LV to fairly rely on an exclusion I would expect it to show its reliance was justified.

LV's position is that there is no evidence there was a leak from a pipe. The plumber's note can't be validated. And the photos and video aren't enough to show there was a leaking pipe. LV's expert opinion is that the poor state of the seals around the bath, combined with use by young children, would cause extensive water damage under the bath.

Mr S provided a note from their neighbour, who they say is a retired plumber, confirming the leak had been traced to a corroded washer on a flexi-pipe. Once replaced, the leak stopped. The plumber is adamant the seals on the bath played no part in the leak he dealt with. Mr S also provided photos and a video of the leak. There was a water trail on the damaged pipe but no signs of water where LV suggested the bath seals had failed. Mr S and Ms W said their family had been using the bath since the repair and there'd been no other problems.

Firstly I'll explain that my decision is based on the available evidence. Where there is contradictory evidence I have to reach a decision on the balance of probabilities – in other words what is likely to have happened in the light of the evidence presented and the wider circumstances.

Given the amount of water flowing through the kitchen ceiling from the bathroom above, I think Mr S and Miss W acted sensibly in contacting their neighbour, knowing he was a retired plumber.

They'd not made any insurance claims before. So it didn't occur to them that the insurer might be able to provide emergency help. And in any event the neighbour was immediately present and able to deal with the problem before the damage escalated. It isn't disputed that the bath seals were in a poor state. And this likely contributed to water leaking into the area. A proper bath screen may also have reduced the chance of water escaping. So if the damage were caused solely as a result of this then I think it would've been fair for LV to decline the claim.

But having carefully considered LV's expert report and reviewed the photos and video provided by Mr S I don't think LV has done enough to show its reliance on the exclusion for poor bath seals was reasonable or justified.

I've no reason to dispute Mr S's version of events, which included the immediate help of a trusted neighbour who they knew to be a former plumber. Although the neighbour wasn't able to provide a written report on headed paper due to retirement, Mr S did offer to ask if he would discuss the matter further with LV. And there have been no reports of further water damage after the pipe connection was repaired.

Putting things right

I'm not persuaded by LV's conclusion that the failed bath seal was the cause of the damage. I think it's likely a leaking pipe was a significant contributor to the damage from the escape of water. So I don't think it was fair for LV to decline the claim by relying on the exclusion.

Therefore LV should pay for the cost of repairs, as previously notified, and pay 8% simple interest from the date the repairs were completed to the date of payment.

Our investigator recommended LV pay £300 compensation for the distress and inconvenience caused to Mr S and Ms W. I'm satisfied that's a fair and reasonable response in the circumstances.

My final decision

For the reasons I've explained above, my final decision is that I uphold this complaint. Liverpool Victoria Insurance Company Limited trading as LV= should put things right as I've directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Miss W to accept or reject my decision before 13 May 2024.

Andrew Mason
Ombudsman