

The complaint

Mr and Mrs I are unhappy with the service provided by Lloyds Bank General Insurance Limited (LBG) during their escape of water claim.

Mr and Mrs I jointly held buildings and contents insurance underwritten by LBG. For ease of reading, I'll refer to just Mrs I throughout my decision, and any reference to LBG's actions also include those of its agents.

What happened

The background to this complaint is well-known to both parties. So I've set out a summary of what I think are the key events.

Mrs I's kitchen was flooded by a water leak from the neighbouring property. She made a claim, which LBG accepted and paid. The claim settlement itself is not in dispute.

LBG told Mrs I that it would look at recovering some of the cost, which could include her excess, from the neighbour's insurer. It provided her with details of the recovery process. To begin with, the landlord said the property wasn't insured but, later, the property insurer responded to LBG's recovery claim. It explained the escape of water was from the washing machine pipe and unforeseen. Therefore, the insurer said it would not pay any claim costs and left it to LBG to prove negligence.

LBG decided that the prospect of a successful recovery claim was too small to warrant pursuing against the third party's insurer. Therefore, it closed the recovery claim and explained why to Mrs I.

Mrs I was unhappy with LBG's decision. She didn't think it had done enough to investigate the cause of the water escape, and she didn't believe it was from the washing machine. Mrs I complained.

LBG looked into her complaint, but it didn't think it had done anything wrong by closing the recovery claim. Its contractors reported that the escape of water was due to a leak from the neighbouring property, which matched the report from the owner's insurer, so LBG was satisfied that it was unlikely to be in a position to prove negligence. Still unhappy with LBG's decision, Mrs I brought her complaint to this service.

When one of our investigators looked into the complaint, LBG acknowledged that there had been shortfalls in some parts of its service, including delays and mistakes regarding the repair quotes. By way of apology, LBG offered to pay £150 compensation to Mrs I. But it remained of the view that there was no prospect of success with the recovery claim.

Our investigator didn't uphold Mrs I's complaint. He thought LBG had refused to pursue the recovery claim in line with the policy as it had explained in its response to Mrs I. He also thought LBG's compensation offer was a reasonable gesture in light of the shortfalls it identified on looking again at the complaint. Therefore, our investigator didn't think LBG needed to do any more.

Mrs I didn't agree. She said LBG hadn't adequately investigated the cause of the water damage and she didn't agree it was due to a washing machine leak. Mrs I reported that her neighbour told her the escape of water was due to disrepair. Mrs I also said it wasn't good enough that LBG offered compensation only when she brought her complaint to us. She asked for further review, so the complaint was passed to me to decide.

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, I've decided not to uphold Mrs I's complaint. I'll explain why.

The relevant regulator's rules say that insurers must handle claims promptly and fairly, they must act in the best interests of their customers. My role is to look at whether LBG handled Mrs I's claim in line with the policy, and whether that was fair and reasonable in the circumstances.

The policy sets out the detail of the contract between Mrs I and LBG. Page 59 of the policy booklet states:

Your insurer has the right to:

- *Negotiate, settle or defend any claim in your name and on your behalf*
- *...Your insurer may also pursue any claim to recover any amount due from a third party in the name of anyone claiming cover under this policy.*

The wording here only says that LBG has the right to, and may, pursue a claim. It doesn't guarantee that it will pursue a claim and recover losses.

Turning to the Recovery Claim pack that LBG provided, I note that on page 3 it says:

Unfortunately, the recovery process is not guaranteed; we may not be able to recovery (sic) 100% of the costs on the claim; and we may have to abandon the recovery at any time during the recovery process.

We may abandon a recovery for several reasons, including but not limited to:

- *On investigation, we find there are no reasonable prospects of making a successful recovery, or grounds to hold the Third Party responsible.*

We will advise you should we have to abandon the recovery of your insured losses...

...your Insurer has the right to make a claim against a liable Third Party in your name, and it is their choice if the recovery is pursued or not.

Based on this evidence, I'm satisfied that LBG was entitled to stop pursuing the recovery claim for the reasons it gave, and in line with the overall policy terms and conditions.

I've thought about whether it was fair to stop the recovery claim in the overall circumstances. LBG received notification from the third party's insurer which said the escape of water was from a washing machine pipe – not the washing machine itself – and it was unforeseen. The insurer said it was a one-off incident and it was up to LBG to prove negligence should it continue with a recovery claim.

While I accept that Mrs I was told by the tenant that the washing machine wasn't on and the escape of water was due to disrepair, there's no evidence to support what she says. And, as

noted above, the water escaped from the pipe rather than the washing machine. I can't fairly disregard the inspection report based on uncorroborated claims made by a third party.

Having considered the insurer's response, and the lack of any evidence to prove that the escape of water was caused by something other than that stated, I find that LBG reasonably decided not to pursue the claim. That's because it had no evidence of negligence, so it was unlikely to succeed in a recovery claim, meaning it was uneconomical for it to proceed. I'm satisfied that LBG's decision was reasonable in the circumstances, and it appropriately communicated its decision to Mrs I.

Finally, I've thought about the compensation LBG offered. I've looked at the timeline of events and I've noted some minor delays in progressing the claim. However, I've also noted that Mrs I didn't always provide information promptly, so I can't reasonably say the delays were all caused by LBG. In respect of the quote amount, there was some confusion because Mrs I said further work was needed, and LBG asked for the revised quote. It turned out that the work wasn't needed, so I can see why LBG sought clarification from Mrs I. I don't think that was a significant shortfall in service.

Based on what appear to be relatively minor service shortfalls, I wouldn't have asked LBG to pay compensation. It has made the offer, which remains open to Mrs I to accept. Should Mrs I choose to accept the compensation, she may wish to contact LBG directly.

Overall, I'm satisfied that LBG reasonably decided not to pursue a recovery claim due to having little prospect of success, which was in line with the policy terms and conditions. I see no reason to ask LBG to do any more.

My final decision

For the reasons given, my final decision is that I don't uphold Mr and Mrs I's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs I and Mr I to accept or reject my decision before 23 August 2024.

Debra Vaughan
Ombudsman