

The complaint

H and H bring a complaint in their capacity as directors of a limited company. They complain that Aspen Insurance UK Limited (“Aspen”) hasn’t dealt fairly with a claim made under their building insurance policy.

What happened

H and H found that there had been a leak at two of their commercial properties which were in the same building. They reported the incidents to Aspen and also instructed contractors to undertake the necessary remedial work. They submitted their invoices to Aspen expecting that these would be covered under the policy.

Aspen agreed to make the payments subject to relevant evidence being presented by H and H of payments being made to contractors and proof that the payments were received. H and H say that they provided this.

However, Aspen said a large portion of the payments made to the contractors didn’t come from a business account. So it said it was still awaiting further information from H and H without which it couldn’t progress the claim. It also says the delays in reporting the claims were too long and it had concerns about the invoices presented.

H and H remained unhappy about how Aspen was dealing with the claim, and so they referred their complaint to this service. Our Investigator considered everything and thought Aspen needed to do more – in particular that it needed to make a decision on the claim which was in line with the terms and conditions of the policy.

Because an agreement couldn’t be reached, the complaint has now been 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’m upholding this complaint. I’ll explain why.

I should clarify that I’ve looked into the first two claims made by H and H and that a separate complaint has been dealt with by this service in relation to the third claim.

I’ve considered what the policy says about how claims will be settled. And there’s nothing in policy that says that the insured business has to pay for works in order for the payments to be reimbursed. In this case, it seems likely that a director has paid out of his personal account on behalf of the limited company and so I think this should be sufficient proof that payments were made on behalf of the insured business and I don’t consider this an adequate reason not to proceed with the claim.

Aspen says there was an inordinate delay in presenting the claims. The first was a delay of around 16 months between the event in February 2021 and the claim being made in June

2022, with the claim being made after all the alleged works had been completed. And the second was a delay of around 15 months between the event in April 2021 and the claim being made in July 2022, again after all alleged works had been completed.

Aspen says it hasn't received a plausible explanation for the delays and it also has concerns about the invoices that were presented. I've noted that although the delays do seem excessive, H and H have provided a reasonable explanation for the delays, saying they were chasing their management company for insurance details, so that they could correctly register the claim – but that the management company remained unhelpful, whilst H and H also focused on the urgent repair work that was needed in order for their company to continue trading. And so I'm satisfied that the delays were reasonable based on the information given to me.

In relation to Aspen's concerns about the invoices, I think Aspen is entitled to ask for more information to validate the information it's been given and substantiate the full amount claimed for. I consider it reasonable for an insurer to do so in the circumstances. The policy also says:

"In the event of damage, loss of rent or any accident or injury which may give rise to a claim the Insured shall: (iii) deliver to the Insurer(s) at the Insured's expense information evidence or assistance as required".

It goes on to say that such information should be provided *"within 60 days after the damage"* or *"within such further time as the Insurer(s) may allow"*.

So I'm going to require that Aspen, subject to receiving the required evidence from H and H in response to reasonable enquiries, reconsiders the claim in line with the remaining terms and conditions of the policy. In any event, whether it does or does not receive the evidence it requires from H and H, Aspen must make a decision in relation to the claim and inform H and H of that decision.

If H and H remain unhappy with Aspen's claim decision, then they may complain to Aspen about its claim decision in the first instance. And, subject to the relevant rules and time limits that may apply, it may then refer that complaint to this service.

Putting things right

Aspen Insurance UK Limited must reconsider the claim in line with the remaining policy terms and conditions and inform H and H of its claim decision.

My final decision

My final decision is that I uphold this complaint and I direct Aspen Insurance UK Limited to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask H and H to accept or reject my decision before 19 July 2024.

Ifrah Malik
Ombudsman