

The complaint

Mrs F complains that following a claim she made under her caravan insurance policy, contractors appointed by FAIRMEAD INSURANCE LIMITED (Fairmead) caused additional damage.

What happened

Mrs F has a caravan insurance policy underwritten by Fairmead. A claim was made by Mrs F for storm damage to her caravan.

Ultimately Fairmead declared the caravan a total loss due to the limited availability of parts and a cash settlement was paid to Mrs F. Following this, Fairmead's supplier collected the damaged caravan, and in the process of doing this, damage was caused to the decking.

Mrs F complained to Fairmead about the damage that had been caused. Fairmead said that the decking was rotten and the damage was inevitable, and that the decking wasn't damaged by the storm so there was no insured peril under the policy. They suggested Mrs F claim directly against the contractor's liability insurance.

As Mrs F remained unhappy, she approached the Financial Ombudsman Service.

One of our investigators looked into things but he didn't uphold the complaint. He said that there wasn't an insured peril under the policy that would cover the damage caused to the decking. He also said that if any supplier had tried to remove the caravan then the decking would've been damaged. So, he said the damage was inevitable and Mrs F should make a claim via the contractor's liability insurance as suggested by Fairmead.

Mrs F didn't agree, so the case was passed to me for a final decision.

I reached a different outcome to our investigator, so I issued a provisional decision to give both parties an opportunity to comment on my initial findings before I reached my final decision.

What I provisionally decided – and why

In my provisional decision, I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've reached a different outcome to our investigator, so I'm issuing a provisional decision to give both parties an opportunity to comment on my initial findings before I reach my final decision.

The damage to the decking wasn't caused during the storm which damaged the caravan, and instead the damage was caused when the caravan was being removed after Fairmead had accepted and settled the claim. So, here, it doesn't matter what

the insurance policy covers, as Mrs F isn't making a claim under that for the damage caused, and instead she is holding the supplier responsible for the damage.

Mrs F says that the supplier winched the decking away, and this caused it to break in half and this could've been avoided, so she says they are responsible for the damage. Having seen the images, these support what Mrs F says about how the damage was caused. It's clear to see that part of the decking remained where it was, and part was pulled away at an almost right angle after breaking apart in the middle.

Fairmead says the decking was rotten, so this was the cause of the damage, and it was inevitable. However, I'm not inclined to agree. The decking doesn't look 'new', but I don't think the images conclusively show it was rotten or at the end of its life either. So, I think the damage was caused due to the supplier actions, and was avoidable, rather than inevitable damage due to the condition of the decking.

Even if there were concerns with the condition of the decking, and the view of the supplier was that damage was inevitable, then I'd have expected this to have been highlighted beforehand to Mrs F, and agreement sought from her to still go ahead accepting that any damage caused wouldn't be the responsibility of the supplier. But that didn't happen. It does seem from Fairmead's internal discussion that they also shared a similar view too.

However, Fairmead have then suggested Mrs F should approach the supplier to make a claim under their liability insurance. The fact that Fairmead is directing Mrs F to the supplier also indicates they share a similar view that the supplier caused avoidable damage which shouldn't have been caused in the way it was. And our investigator agreed with Fairmead's suggestion for Mrs F to approach the supplier to claim against their liability insurer. However, I don't think that's a fair or reasonable approach. I'll explain why.

If the supplier had been appointed by Mrs F, then that would have been a relationship between her and the supplier, so Fairmead wouldn't be responsible for anything that happened or any damage the supplier caused. But instead, the supplier was appointed by Fairmead as part of the claim, so the supplier was acting as an agent of Fairmead. Ultimately this means, as the insurer who appointed the supplier, Fairmead is responsible for their actions.

I'm persuaded, on balance, that the damage caused to the decking was avoidable, and caused by the supplier acting as agent of Fairmead. Therefore, unless anything changes as a result of the responses to my provisional decision, I'll be directing Fairmead to deal with the damage caused to the decking by their appointed supplier.

If my final decision remains the same as my provisional decision and Mrs F accepts it, then both parties will need to engage with each other in order for Fairmead to deal with the damaged decking. If Mrs F is unhappy with how Fairmead intends to settle this (such as repair, replace, cash settle etc) she'd be free to raise a new complaint about the settlement she's offered.

Whether Fairmead seeks to recover any costs they incur against the supplier's liability insurance is for Fairmead to decide, but ultimately it isn't fair or reasonable for Fairmead to simply suggest Mrs F make a claim against their supplier separately and directly when they appointed the supplier, and the supplier was acting as their agent when the damage was caused.

As I think Fairmead unfairly simply directed Mrs F to the supplier to claim directly against their insurer when Fairmead should have dealt with the damage, unless anything changes as a result of the responses to my provisional decision, I'll also be directing Fairmead to pay Mrs F £150 compensation for the additional distress and inconvenience caused."

So, I was minded to uphold the complaint and to direct Fairmead to:

- Deal with the damage caused to the decking by their appointed supplier
- Pay Mrs F £150 compensation

The responses to my provision decisional

Fairmead responded confirming they accepted the provisional decision.

Mrs F also confirmed that she accepted the provisional 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.

And I've thought carefully about the provisional decision I reached. As neither party has provided anything that would lead me to reach a different conclusion, my final decision remains the same as my provisional decision, and for the same reasons.

My final decision

It's my final decision that I uphold the complaint and direct FAIRMEAD INSURANCE LIMITED to:

- Deal with the damage caused to the decking by their appointed supplier
- Pay Mrs F £150 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 18 September 2024.

Callum Milne
Ombudsman