

The complaint

Mr and Mrs J complain about the handling of their commercial buildings insurance claim by Liverpool Victoria Insurance Company Limited (LV).

What happened

The following is intended only as a brief summary of the events leading to this complaint. The circumstances are known to both parties and, largely speaking, are not disputed. Additionally, for the sake of simplicity, although a number of third parties have been involved in the process, I have only referred to Mr and Mrs J, and LV.

Mr and Mrs J own a commercial property and held a buildings insurance policy covering this, underwritten by LV. In 2016, the property adjacent to Mr and Mrs J's suffered a fire and substantial damage. Some damage was also caused to Mr and Mrs J's property, and they claimed under their policy with LV.

In 2018, LV arranged for repairs to Mr and Mrs J's property to take place. However, the owners of the adjacent property did not carry out their own repairs. And the adjacent property remains heavily damaged to date. This includes the lack of any substantial roofing. As a result of the lack of repair to the adjacent property, the "internal" party wall to Mr and Mrs J's property is exposed to the elements. LV's repair of their property did not include any works to make this wall waterproof.

In 2021, Mr and Mrs J contacted LV to report damage caused by an ingress of water through this party wall. They essentially said that this was as a result of the works arranged by LV not including any waterproofing.

LV said that it was not responsible for the recent damage, as its responsibilities in relation to the original claim was limited to reinstating Mr and Mrs J's property to the condition it was in prior to the fire and did not extend to addressing damages caused by the adjacent property not being repaired. LV said the responsibility for protecting a property from damage and for maintaining it rested with Mr and Mrs J. LV also said that the recent damage had occurred after the policy had expired. LV did though acknowledge that it could have managed Mr and Mrs J's expectations better at the time of the original claim.

Mr and Mrs J brought their complaint to the Ombudsman Service. Our Investigator recommended that it be upheld. He thought that whilst LV was not required by the policy to make any repair to the adjacent property, it was required to carry out a lasting repair to Mr and Mrs J's property.

The Investigator said that it seemed as though LV assumed the adjacent property would be repaired within a reasonable time, but that this had not been confirmed – and ultimately these works didn't happen. The Investigator did not consider that potential options for waterproofing Mr and Mrs J's property would be considered betterment. And that these, or alternative options to provide a lasting repair should have been carried out.

As they were not, the Investigator thought LV were responsible for rectifying the recent

damage and for providing a lasting repair. He also thought LV should pay Mr and Mrs J £200 in recognition of the inconvenience caused.

LV did not accept the Investigator's recommendations, so this complaint has been passed to me for a 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.

Having done so, I have come to the same conclusions as the Investigator, largely for the same reasons.

The 2016 claim was complicated by the lack of any engagement from the third-party owners of the adjacent property. However, this lack of engagement was, or ought to have been, clear by the time the works on Mr and Mrs J's property started.

Even though there was this lack of any engagement, LV arranged for repairs that it ought to have known would not be lasting. It was not appropriate to have carried out these repairs without, at minimum, confirmation that the adjacent property would be made watertight.

I do appreciate that without the engagement from the third-party owners, LV may have found itself in a difficult position. LV was required to deal with the claim promptly, etc. But once LV opted to arrange the repairs, it became obliged to ensure these were lasting repairs.

I do note LV's point about Mr and Mrs J having a responsibility to maintain their property. But the recent damage has not occurred as a result of the deterioration of their property as such. The damage is the result of the issues arising from the fire having not been fully resolved. The responsibility for rectifying many of these issues rests with the third-party owners. But this does not mean LV is not obligated to provide a lasting repair.

In order to carry out these lasting repairs, it is possible LV were required to take action that went beyond repairing the damaged property. But I consider this was an inevitable consequence of the insured event, and was something that LV was required to do in order to meet its obligations under the policy.

Because LV did not arrange for repairs that would be lasting, I consider the more recent damage is a foreseeable consequence of LV's actions in dealing with the claim. I do not consider repair of this recent damage to be a new claim as such; it is a consequential loss relating to a claim that previously occurred during the term of the policy. And I consider LV is required not only to correct this recent damage, but also to ensure that repairs are lasting.

How LV ensures a lasting repair is largely open to it. It appears there are a number of options, some more drastic than others. But the waterproofing suggested by the 2022 report provides a couple of these that appear reasonable. It is likely that notice would need to be served on the third-party owners, and/or an order from the Courts obtained. But this does not seem insurmountable in the circumstances. And LV should at least make all reasonable attempts to ensure a lasting repair.

In terms of the claim handling overall, Mr and Mrs J have not made too many comments in relation to the impact of this. Their focus has, understandably, been ensuring the damage is repaired.

Mr and Mrs J have referred to being told future damage would be covered; though there is

little evidence to support this. However, like the Investigator, I note that LV itself has acknowledged a lack of managing their expectations at the time of the original claim. It also isn't clear why the process of responding to the recent damage took so long. It was raised in 2021, but it doesn't appear LV confirmed it wouldn't be covered until 2023.

As I say, Mr and Mrs J haven't provided any commentary over this or the impact it had on them. But they have referred to this timeframe and their disappointment with having the request for the recent damage to be repaired declined. Given these issues, I am persuaded that compensation of £200 is fair and reasonable in the circumstances.

Putting things right

Liverpool Victoria Insurance Company Limited should make all reasonable attempts to provide a lasting repair to Mr and Mrs J's property of the issues that arose from the fire in 2016. This includes making an application to the Courts, if required, to gain access to the third parties' land.

Liverpool Victoria Insurance Company Limited should repair the internal damage to Mr and Mrs J's property that has arisen as a result of the ingress of water through the exposed internal wall.

Liverpool Victoria Insurance Company Limited should pay Mr and Mrs J £200 to compensate them for the distress and inconvenience caused.

My final decision

My final decision is that I uphold this complaint. Liverpool Victoria Insurance Company Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs J to accept or reject my decision before 14 October 2024.

Sam Thomas
Ombudsman