

The complaint

The estate of Mrs M complains about the way Gresham Insurance Company Limited handled a claim it made on its home insurance policy following a claim made following an escape of water.

Mrs S is bringing the complaint on behalf of the estate as sole executor. When the claim (and complaint) was initially made, Mrs S brought the complaint as a representative of the late Mrs M in her capacity as a Lasting Power of Attorney (LPA). For ease, as Mrs S has always been the correspondent for the claim and complaint, I've mostly only referred to Mrs S in this decision.

At the time of the claim Mrs S and her family lived in the insured property with Mrs M.

What happened

In January 2023 there was an escape of water at the insured property. Mrs S and her family had to move into alternative accommodation whilst repairs were carried out on the property.

As well as the insurance related repairs needed, Mrs S wanted to make some changes to the property, including to a bathroom and a fireplace.

In summer 2023 Mrs S complained about the progress on the claim. She also had concerns over the contractors, including how they'd spoken to her. She was also unhappy with the alternative accommodation (AA) arrangements that had been made, the scope of the claim and costs allowed.

Gresham responded with a complaint final response letter (FRL) on 24 October 2023. It noted there had been issues with the property Mrs S was staying in but didn't think it was responsible for causing those issues. Whilst it didn't accept any further works needed completing as part of the claim, or any wrongdoing on the part of the contractors, it offered £300 compensation.

Mrs S complained further to Gresham. She outlined issues with the repairs and said the contractors had caused criminal damage to the property and she'd reported them to the police for a hate crime, which was being investigated.

A second complaint FRL was issued on 10 January 2024. That said Gresham had requested Mr S provide photographs of snagging work to be rectified in December 2023. It also said that given Mrs S' concerns about the contractor – and the police investigation – it would allow Mrs S to use her own contractor to provide quotes. It said if the work was relevant to the claim and costs reasonable it would be open to engaging with the contractor on those works, on the proviso Mrs S understood the contractors works would no longer be the responsibility of Gresham.

Unsatisfied with Gresham's response, Mrs S raised a complaint to the Financial Ombudsman Service. She raised several points; in summary she felt the compensation offered by Gresham wasn't enough. She also wanted Gresham to pay for further issues she'd noted with the repair works carried out. Our Investigator recommended the complaint be upheld. She thought Gresham should increase the compensation to £550. She said as Mrs S was now representing the estate in bringing the complaint (and had previously been

LPA) she couldn't make any further award for distress suffered by her personally or her children.

She also said the following works were needed to resolve matters. Noting that Gresham had said it would cash settle, she said it should pay for the following:

- Rectifying issue relating to mould in back bedroom.
- Rectifying poor decoration works relating to wallpaper peeling and paint bubbling in certain areas.
- Repair/Replacing split kitchen worktop.
- Plumbing works – specifically the re-plumbing of shower pipeworks and power flush.
- Labour cost for the replacement toilet (as Gresham already cash settled with her for a toilet).
- Rectifying issues with a rotting shower base in the bathroom.
- Repairing render that was filled following external plumbing works.
- Relocation of the kitchen light fitting.
- Relocating the hob switch to its previous location above the countertop.
- Sealing of the kitchen hob.
- Rectifying issues with sealant around a sink.
- Re-hanging of kitchen door; and
- Moving the insulation in the loft to underneath the floorboards in the loft.

Initially the parties accepted this, but later Mrs S asked for an Ombudsman to consider matters. She said she'd recently found mould behind a child's bed, and so wanted proof Gresham used damp proofing in her property. She said Gresham and its contractors had given conflicting information about works carried out to a fireplace. Mrs S said this was done as part of the claim, but Gresham removed the old fireplace and left a hole in the wall without her consent.

Our Investigator said new concerns around mould would need to be shared with Gresham first, in order for it to have an opportunity for it to respond, before we could consider a complaint. Mrs S said she didn't think that should be necessary, she said she'd complained about mould from the start; it wasn't a new issue. She also didn't accept the Investigator's finding that compensation would only be paid to the policyholder (who is now the estate of Mrs M). She said her and her children should also be entitled to distress and inconvenience payments due to Gresham's handling, as beneficiaries of the insurance policy.

As the matter hasn't been resolved, it has come 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.

As this is an informal Service I'm not going to respond to every point made of piece of evidence referred to by the parties. Instead, I'll focus on those that are key to the outcome I've reached.

I'm also not going to revisit matters already agreed on. The bullet pointed list in the background of this decision is matters Gresham and Mrs S have already agreed to. So Gresham will need to provide a cash settlement to resolve those issues. Gresham said in its FRL that it would consider costs from Mrs S' contractor. I think this means Gresham has agreed to settle at Mrs S' own contractor's rates, rather than applying any discount it might receive from using its preferred contractors. I consider this is reasonable in the circumstances for it to settle at Mrs S' contractors' rates given the issues faced and bearing in mind the breakdown in the relationship and Mrs S reporting the contractors to the police for criminal damage.

In relation to the mould, Mrs S has raised problems with mould as part of this complaint, which our Investigator said should be rectified. But Mrs S' wider points about more mould found and her wanting more information about what damp proofing works were carried out by Gresham is new, this isn't a complaint point Gresham has responded to. I appreciate the frustrating position Mrs S finds herself in, but this Service reviews complaints, we don't handle claims. So if Mrs S has wider concerns about damp proofing at the property, those do need to be raised with Gresham first.

The key things for me to consider are whether Gresham should pay any further costs, not listed by our Investigator. I won't list every further cost or issue Mrs S has raised, instead I'll focus on those that remain in dispute that are the highest value, such as the fireplace and patio doors, as our Investigator has already set out why some smaller items don't need to be settled by Gresham. I agree with what's been said about those items and I'm satisfied they don't merit further discussion here. As I say, my focus will be on the items of key importance and value. I'll also consider Mrs S' points about a further award of compensation.

Removal of the fireplace

Mrs S complains Gresham removed her old fireplace without her consent and it left her with a hole in the wall. She's provided emails from Gresham and the contractor who she says blame each other for the works. Gresham says those works were not claim related and were privately arranged between Mrs S and the contractor. The contractor says the works were done as part of the claim and issues raised need to be sent to Gresham.

I've reviewed Gresham's scope of works and there is no reinstatement work listed as being needed to the fireplace as a result of the claim. However, I can see that Mrs S had asked for certain things in the property to be changed whilst it was being reinstated. One of those was the fireplace, it seems she'd said the mantle was a tripping hazard and asked for it to be removed.

So given the above, it seems more likely to me this was private work that was being carried out. And so I can't reasonably hold Gresham responsible for how the fireplace was then left.

Mrs S says that isn't the case because the costs involved were meant to be covered by other savings Gresham had made from the schedule of works. However, I consider that even if I accept Gresham should be responsible for the actions of its contractor, I'm not satisfied it needs to do more to put things right. It seems to me the mantle was removed as agreed. And Mrs S said she'd be replacing the fire, which was also removed. I can't see she was ever told by Gresham that it would bear the cost of providing a replacement fire from cost savings made elsewhere on the schedule of works. I can see some discussion regarding the fireplace in emails exchanged, but neither Mrs S nor Gresham has provided me with anything which confirms Gresham accepted it would replace the fireplace and then didn't. So I'm not persuaded Gresham's actions have caused her a loss or that it needs to do more to put matters right.

Should Gresham pay for replacement of the patio doors?

It doesn't seem in dispute that the patio doors weren't damaged as part of the escape of water. However, Mrs S says they need replacing due to the actions of the contractor, who

had been cutting tiles on the threshold of the door and slamming it unnecessarily. Gresham's view is that the doors have reached the end of their lifespan being around 30 years old. Where there is a difference of opinion, it is my role to decide what I'm most persuaded by.

Mrs S provided a report from December 2023 (by which point most of the reinstatement work had finished). The report says; *"the door closes and locking alright for the door age...30+ years old. The brush stripes around the frame are worn down and letting draught"*. It goes on to say some adjustments have been made but concludes; *"I think this door needs replacing"*. It doesn't, however, give an opinion on *why* the door needs replacing. It doesn't conclude that the door has been damaged for example by excessive force of weight being placed on it. So, this doesn't persuade me that Gresham should replace the patio doors.

Mrs S has also provided comments from another contractor. He said to Mrs S; *"yes the patio doors are old, but if they were working perfectly fine and were then damaged by the builders, they should be covered"*. But this also isn't evidence that the contractors did damage the doors.

Having considered all of the information, I think it's most likely that the doors need replacing due to their age. It was accepted in December 2023 that the doors were closing and locking ok for its age. That was after much of the reinstatement work had finished. So I think it's more likely the issues Mrs S is now facing with the doors are not related to any actions of the contractor. So it follows I'm not going to ask Gresham to cover the cost of replacing them.

Asbestos removal and certificates of works completed

Mrs S says the Investigator didn't comment on her concern about the improper removal of asbestos, and long-term health implications of any particles left in the house. I can see that Gresham did use specialist contractors to remove the asbestos. It seems to me from the file that further removal works were then later needed when more asbestos was discovered. If Mrs S wants more detail from Gresham as to how the work was done, I'd expect it to provide that. But I haven't seen anything on the file which suggests Gresham didn't identify or remove any asbestos it was meant to as part of the claim related repairs.

Mrs S also says Gresham has never provided the electrical certificates, or one for the drying of the property or any other works carried out. If Gresham hasn't yet done this, I think it should.

Distress and inconvenience

I've no doubt this has been a very difficult time for Mrs S, being away from your home for any amount of time, with young children to look after will inevitably be inconvenient. Mrs S has also shared with us the additional needs of her family which I've no doubt made the situation even more challenging for her to manage. But this Service can't make awards for distress and inconvenience caused by the claim itself. We can make awards to certain eligible complainants for the impact of any mistakes made by Gresham, which resulted in unnecessary distress and inconvenience that proper claim handling would have otherwise avoided.

When the claim was made, and complaint referred to our Service, Mrs S brought the complaint on behalf of the late Mrs M (who was the policyholder) in her capacity as LPA. This meant she was able to bring Mrs M's complaint to this Service, but it doesn't make her eligible for us to award compensation to her. As she is essentially acting as a representative of the policyholder. The complaint rules under which we operate don't allow us to consider compensation awards to representatives. Even if those representatives also live in the same property that is affected by the claim-related damage.

Mrs S says we should be able to award compensation to her and her children as beneficiaries of the policy, as they also lived in the property. But I have to consider how the complaint was brought to this Service. I don't consider Mrs S complained as a beneficiary, she brought the complaint on behalf of the policyholder. She then later was made the

executor of the estate. This Service doesn't award compensation for distress caused to executors either. Gresham has agreed to pay £550 for claim related issues, this will now be paid to the estate. I consider that is fair to recognise the inconvenience caused to the estate in some of the poor repairs which were carried out.

However, even if I were to accept compensation could be paid to her as a beneficiary, I'm not persuaded I would award more compensation. I understand Mrs S was greatly distressed that her son was able to leave the alternative accommodation without Mrs S' knowledge or supervision. But I don't think I can hold Gresham responsible for this. It seems to me the property chosen best suited the needs of the family; I can't fairly hold Gresham responsible for the locks on the doors not being suitable for her family.

Mrs S has said the contractors left a satanic symbol in her loft which she said caused a great deal of distress and was reported to the police as a hate crime. She later said the police had decided it couldn't take any action as it couldn't know which contractor had done it. I'm not persuaded, given the police couldn't take matters further, that I can fairly conclude it was one of Gresham's contractors that did draw the symbol. Whilst this Service doesn't follow the criminal standard of proof, I am mindful that Mrs S also had her own contractors in the property fitting radiators. Gresham said that would also involve accessing the loft space. Overall I'm not persuaded it's most likely that Gresham's contractors drew the symbol. So, it follows that I can't reasonably ask it to compensate Mrs S for the distress caused. I do however note that, once Gresham knew Mrs S had reported matters to the police, it said it would cash settle for Mrs S' own contractor to do the rectification works needed. This doesn't mean, in my view that Gresham accepted liability for symbol being there. Rather I'm satisfied this was a reasonable step taken by Gresham given Mrs S' concerns.

Putting things right

In order to put matters right, Gresham will need to cash settle with Mrs S for the following costs:

- Rectifying issue relating to mould in back bedroom.
- Rectifying poor decoration works relating to wallpaper peeling and paint bubbling in certain areas.
- Repair/Replacing split kitchen worktop.
- Plumbing works – specifically the re-plumbing of shower pipeworks and power flush.
- Labour cost for the replacement toilet (as Gresham already cash settled with her for a toilet).
- Rectifying issues with a rotting shower base in the bathroom.
- Repairing render that was filled following external plumbing works.
- Relocation of the kitchen light fitting.
- Relocating the hob switch to its previous location above the countertop.
- Sealing of the kitchen hob.
- Rectifying issues with sealant around a sink.
- Re-hanging of kitchen door; and
- Moving the insulation in the loft to underneath the floorboards in the loft.

I also require Gresham to pay the estate of Mrs M £550 compensation to resolve the complaint.

Mrs S has asked if this is in addition to other items Gresham said it will resolve. If Gresham has already agreed to works not on this list, I'd expect it to carry those out in addition.

My final decision

My final decision is that I uphold this complaint I direct Gresham Insurance Company Limited to settle it in line with the “putting things right” section above.

Under the rules of the Financial Ombudsman Service, I’m required to ask the estate of Mrs M to accept or reject my decision before 6 January 2025.

Michelle Henderson
Ombudsman