

The complaint

Mr N and Mrs N complain about Haven Insurance Company Limited (“HIC”) and the decision to decline the claim they made on their home insurance policy.

Mr N has acted as the main representative of the policyholders throughout the claim and complaint process. So, for ease of reference, I will refer to any actions taken, or comments made, by either Mr N or Mrs N as “Mr N” throughout the decision where appropriate.

What happened

The claim and complaint circumstances are well known to both parties. So, I don’t intend to list them chronologically in detail. But to summarise, Mr N held a home insurance policy, underwritten by HIC, when he discovered a leak in his property related to his washing machine. So, he contacted HIC to make a claim.

After this, Mr N instructed a third-party loss adjustor, who I’ll refer to as “C”, to manage the claim on his behalf. HIC considered Mr N’s claim, and appointed their own loss assessor, who I’ll refer to as “D”, to manage and validate the claim. D recommended the claim be declined and H followed this advice, making C and Mr N aware of the same. Mr N was unhappy about this, so he raised a complaint.

Mr N was unhappy about the decision to decline the claim, as he felt the leak at his home was an insured event covered by his policy. So, he wanted HIC to overturn their original claim decision.

HIC responded to the complaint and didn’t uphold it, maintaining their original claim decision. Mr N remained unhappy with this response, so he referred his complaint to us. Mr N also raised a separate issue about HIC’s failure to respond to his Data Subject Access Request (“DSAR”) in reasonable time. HIC responded to this complaint and upheld it, offering Mr N £150 in compensation.

Our investigator considered both of Mr N’s complaints and didn’t uphold them initially. They explained why they thought HIC were fair to decline the claim and why they thought the £150 offered for the delays in processing the DSAR was a reasonable one. Mr N didn’t agree, maintaining his position on why he thought HIC were unfair to decline the claim, based on the claim circumstances and the evidence he provided.

Our investigator reconsidered Mr N’s complaint considering these points. And they decided to uphold it in part. While they thought HIC were still fair to decline the claim, they thought HIC had failed to make it reasonably clear to Mr N the claim was declined based on a policy exclusion relating to gradual damage. So, they thought HIC should pay Mr N £150 to recognise the impact this lack of clarification caused, on top of the £150 already offered for the DSAR issue.

Mr N didn’t agree, providing several comments setting out why. These included, and are not limited to, his continued assertion that the damage found in his house resulted from a one-off leak. And he explained why the tile damage may be present and unrelated to the leak he

was claiming for. As Mr N didn't agree, the 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'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Before I explain why I've reached my decision, I think it would be useful for me to set out exactly what I've been able to consider, and how. As our investigator has already explained, our service is only able to consider complaint issues referred to our service within six months from the date of a business' complaint response. Because of this, any issues addressed by HIC in their complaint response issued in June 2023 won't be considered, or commented upon, within this decision, as Mr N didn't contact us until February 2024.

Instead, my decision will focus on Mr N's complaint about HIC's decision to decline the claim, as well as the delays in responding to his DSAR. And when doing so, I want to make it clear it's not my role, nor the role of our service, to re-underwrite the claim Mr N made as we don't have the expertise to do so. Instead, it is my role to consider the actions HIC have taken and decide whether these were fair and reasonable, taking into account the policy documentation and other information available to HIC at the time their decision was made.

In this situation, I note HIC have already accepted there were avoidable delays when responding to Mr N's DSAR. So, I think it's reasonable for me to assume it's not in dispute that HIC acted unfairly regarding this complaint point and so, I will return to it when I consider what I think HIC should do to put things right.

I've then focused on what I'm satisfied is the crux of Mr N's complaint, which centres around HIC's decision to decline his claim. For me to direct HIC to overturn this claim decision, I first need to be satisfied they have made a mistake when declining the claim. So, I'd need to be satisfied they failed to act in line with the terms and conditions of the policy when doing so.

I've read the policy terms and conditions at length. And while I'm aware much of HIC's correspondence refers to the idea of a "one-off" leak needing to have occurred, I can't see anywhere in the policy terms and conditions where this is set out.

Instead, the policy makes it reasonably clear that Mr N would be covered for *"Escape of water from washing machines, dishwashers, fixed water or fixed heating systems, freezing of water and the cost of tracing and access the cause"*.

In this case, Mr N was claiming for a leak coming from his washing machine, which his local plumber had stated arose due to the freezing of water in his waste pipe. So, based on the above, I'm satisfied the leak Mr N was claiming for was an insured peril under the policy.

But I note HIC have since confirmed, despite some of their communication being conflicting, they don't dispute this. And instead, they've made it clear Mr N's claim was declined due to a policy exclusion relating to gradual damage.

This exclusion explains that HIC will not *"pay for any loss, damage, liability, cost or expense of any kind, directly or indirectly caused by or resulting from wear and tear, depreciation, corrosion, rusting, damp, rising damp, rising water table, insects, infestation, vermin, fungus,*

condensation, fading, front, or anything that happens gradually". So, I've thought about whether I've been persuaded that HIC were fair to rely on this exclusion, based on the information available to them at the time. I'm satisfied they were on this occasion, and I'll explain why.

Again, I want to reiterate it isn't my role to re-underwrite the claim. So, I won't be speculating on how I think the claim should've been settled. Instead, I've considered HIC's actions against our service's approach and what we would expect. In line with this approach, we would expect HIC to be given an opportunity to validate the claim which would include obtaining an expert opinion. And then, when this is received, to rely on this expert opinion unless more persuasive conflicting information is provided from a similarly qualified person.

In this situation, I note a loss adjustor from D has compiled a report, following an inspection at Mr N's home, stating that the damage present *"has the appearance of an older, slow style leak, over a period of time"*.

The report also comments on Mr N's own plumbers notes they had seen, explaining that *"The plumbers notes suggest that the damage was ongoing as the leak would happen whenever the washing machine was in use. This along with the visible appearance of the damage would suggest a leak over a period of time"* before going on to dispute the plumber's conclusion on the cause of the leak, noting it was more than a month between the leak occurring and the plumbers report and photo's being produced.

Based on the above, considering D were the expert in this situation instructed by HIC, in line with our approach I'm unable to say HIC were unfair when relying on D's opinion. And its clear D's opinion was that the damage being claimed for had been occurring over a period of time, referring to photo's that HIC also had sight of to reaffirm this position.

And considering Mr N's own plumber's report was dated more than a month after the leak, with their photo's being taken on the same day with these photos showing damage to the tiles near the washing machine that included blackened grout and cracked tiles, I'm not persuaded that Mr N, or C, provided HIC with information that should have persuaded HIC to make a different claim decision on this occasion. So, I won't be directing them to accept and pay the claim.

But I do think between D and HIC, the information given to Mr N and C about the reason for the claim decline was unclear, and hard to follow. So, I do think Mr N should be compensated for the confusion this caused, which I'll discuss below when explaining what HIC should do to put things right.

Putting things right

When thinking about what HIC should do to put things right, any award or direction I make is intended to place Mr N and Mrs N back in the position they would've been in, had HIC acted fairly in the first place.

In this situation, had HIC done so, they would have ensured they responded to Mr N's DSAR in a reasonable time frame, especially when they were aware he had already complained previously. But crucially, their failure here didn't prevent Mr N from receiving the documents he wanted and being able to review these, nor did it prevent him from bringing his complaint about the claim decline to our service. So, considering the above, I think the £150 already offered by HIC is a fair one, as it fairly compensates Mr N and Mrs N for the frustration and inconvenience the delay caused while also recognising the limited impact to Mr N on the actions he wanted to take after receiving these documents. So, I'm not directing HIC to do anything more regarding this aspect of the complaint. If HIC hasn't yet made this payment,

Mr N should contact HIC directly to ensure it is paid.

I've then turned to the claim decision itself. And had HIC acted fairly, while I'm satisfied the claim would still have been declined, Mr N and Mrs N would have been given more appropriate information and reasoning about why HIC made the decision they did.

HIC's failure here has left Mr N and Mrs N in a state of confusion regarding why the claim was declined, which has resulted in him needing to engage with HIC and our service to fully understand and challenge the initial reasoning HIC provided. I don't doubt this would've been both frustrating and inconvenient, while also leaving Mr N and Mrs N feeling as though their claim had been declined unfairly.

Our investigator recommended HIC pay Mr N and Mrs N an additional £150 to recognise the above. And I'm satisfied this recommendation is a fair one, that falls in line with our service's approach and what I would have directed, had it not already been put forward. So, this is a payment I'm now directing HIC to pay.

I understand this isn't the outcome Mr N was hoping for. And I want to reassure Mr N I've considered all the comments he's put forward, even if I haven't spoken to them specifically. I want to make it clear to Mr N this decision isn't in any way intended to suggest I don't believe his testimony regarding the claim and that he made it in good faith, providing an accurate depiction of what he believed to be the cause. But crucially, in line with our service's approach, any decision I reach must be based on the evidence and information available to HIC at the time they made their decision. So, this is what I've done.

My final decision

For the reasons outlined above, I uphold Mr N and Mrs N's complaint about Haven Insurance Company Limited and I direct them to take the following action:

- Pay Mr N and Mrs N £150 to recognise their failures when communicating the reasoning for the claim decline.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs N to accept or reject my decision before 26 March 2025.

Josh Haskey
Ombudsman