

## **The complaint**

Mr and Mrs H complain that Liverpool Victoria Insurance Company Limited (“LV”) unfairly cancelled their home insurance (buildings) policy and placed a fraud marker on a database.

Mr and Mrs H are joint policyholders, but most of the communication regarding the claim and complaint has been from Mrs H. So, I’ll refer mainly to her in my decision.

LV is the underwriter of this policy i.e. the insurer. Part of this complaint concerns the actions of its agents. As LV has accepted it is accountable for the actions of the agents, in my decision, any reference to LV includes the actions of the agents.

## **What happened**

In November 2020, Mrs H took out a home insurance (buildings) policy with LV. She took out home emergency cover alongside it as an optional extra. The policy started on 15 November. On 7 December, Mrs H made a claim on the policy. She said her conservatory roof had been damaged by a pigeon that had got stuck in the panels. She thought the pigeon had damaged the lead or sealant and this was causing water to enter the conservatory and damage a wall.

LV was concerned that a claim had been made so soon after the policy start date, particularly as there was a gap in insurance cover prior to it being taken out. A member of its fraud team telephoned Mrs H to ask her some questions before a surveyor was sent to the property to review the damage.

In December 2020, LV advised Mrs H it believed she had misrepresented her claim. It said it had declined her claim and cancelled her policy from the date of the fraud.

Mrs H made two complaints to LV in 2023. The first complaint was about the decision it had made in 2020 which was impacting her ability to obtain insurance elsewhere. Her second complaint was that LV hadn’t told her it was adding her to any fraud databases.

LV said it had made the correct decision in declining her claim and cancelling her policy. It said the letter it had sent her in December 2020 clearly stated LV shares data with other organisations and fraud prevention agencies.

Mrs H remained unhappy and asked our service to consider her concerns.

I issued a provisional decision on 7 February 2025 where I explained why I intended to uphold Mrs H’s complaint. In that 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.*

*Based on what I’ve seen so far, I intend to uphold Mr and Mrs H’s complaint. I’ll explain why.*

*I’ve considered everything both parties have told our service, but I’ll be keeping my findings to what I believe to be the crux of Mrs H’s complaint. I wish to reassure everyone I’ve read and considered everything they’ve sent in, but if I haven’t mentioned a particular point or*

*piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel I need to reference it to explain my decision. This isn't intended as a discourtesy and is a reflection of the informal nature of our service.*

*The policy's terms and conditions say:*

*"If you or anyone representing you makes a claim or part of any claim that is fraudulent, false or exaggerated, we may:*

- reject the claim or reduce the amount of payment we make;*
- cancel your policy from the date of the fraudulent act and not return any premium paid;*
- recover from you any costs we've incurred relating to the fraudulent claim and any further claims notified after the date of the fraudulent act; and*
- pass details to fraud prevention and law enforcement agencies who may access and use this information. Other insurers may also access this information."*

*It's important to explain that it isn't for me to decide whether Mr and Mrs H acted fraudulently. Instead, I've needed to consider if LV's decision to invoke the fraud condition in this case was reasonable.*

*I understand LV had several concerns about Mrs H's claim when she first made it. The claim was made only a few weeks after the policy start date and the alleged date of the loss was less than a week after the policy began. Mrs H delayed making the claim until seventeen days after she claimed the roof was damaged. Mrs H had originally requested the policy start on 1 December, which was after the date of loss, but she had later changed it to start in mid-November. There was also a gap in her buildings insurance cover prior to her taking out the policy. Given these concerns, I think it was reasonable for LV's representative to call Mrs H to ask her some questions.*

*LV says Mrs H was vague about the dates when the representative from its fraud team called her two days after she made the claim. It says Mrs H said she at first claimed the damage was discovered on 20 November 2020 because her son had a doctor's appointment. But when questioned on this, she became vague and unable to commit to a single date with any degree of certainty. LV also says Mrs H claimed her husband had carried out temporary repairs using duct tape but again couldn't be certain around the date.*

*I've listened to Mrs H's telephone conversation with LV's representative from 9 December 2020. In this call, LV asked Mrs H when the incident with the roof had happened. Mrs H said she believed it was around the 20<sup>th</sup> or something like that. She said it was around about that date. LV then asked Mrs H what made her certain about the date. Mrs H said she had an appointment for her son, which she thought was on the 20<sup>th</sup>.*

*LV's representative continued to probe her, and Mrs H offered to have a look through her phone for text messages. LV asked her if she had any way of proving it was that date and Mrs H said she couldn't be sure of the day, and it was two or three weeks ago. Mrs H was also uncertain about the date she became aware that the roof was leaking, and her husband put tape on the roof.*

*I appreciate Mrs H was vague about these dates. However, I'm not persuaded that she was being deliberately evasive or lying to LV's representative. During the call, Mrs H mentioned she was feeling stressed, and her mental health was deteriorating. She also said she'd been dealing with a lot of other things, including a problem with the heating and children with*

*additional needs. Listening to the call, I got the impression that Mrs H had a lot on her mind and was having difficulty staying focused and remembering the timeline of events.*

*LV's representative noted concerns that there was a gap in Mr and Mrs H's buildings insurance prior to taking out the policy. He wasn't satisfied with Mrs H's explanations about why they decided to take out the insurance when they did. He thought Mrs H's explanation that they took out the policy because it was a condition of the mortgage was inconsistent because she later said she'd had a mortgage for some time.*

*I appreciate LV's representative might have found it odd that Mr and Mrs H didn't have continuous buildings insurance. However, Mrs H also said they kept putting it off because they didn't have enough money to pay for the insurance and had been busy. I understand his concern that Mrs H was claiming for an incident that she said happened so soon after the policy start date. But I don't think this is enough to conclude their claim was fraudulent.*

*LV seems to have also placed a lot of weight on Mrs H saying there was no damage to the roof externally or any ingress of water internally before she joined LV. It says she told LV these areas had been checked.*

*During the phone call, the representative asked Mrs H if she or anyone in her household had noticed any water ingress or any damage to her conservatory roof before she joined LV. Mrs H said they hadn't. LV then asked how certain she could be that there were no problems with the conservatory roof or ingress of water before she took the quote with LV.*

*Mrs H said that her husband looked at these things, even if not herself. She said her sister-in-law had suggested she make a claim under the home insurance. If she hadn't, Mrs H wouldn't have called because she was more concerned about the pigeon, and she'd like to know how it got out from the two roof sheets. She said that maintenance wise they did look after their house.*

*The representative asked Mrs H to confirm that prior to taking the insurance out there were no issues with her roof. Mrs H said there definitely weren't.*

*The surveyor who visited Mrs H's property shortly after the call concluded that there was a lot of wear and tear or age-related damage where the conservatory joined the property. There were numerous age-related repairs to the conservatory with gaffer tape. He also said there was a massive condensation issue in the conservatory, and a lot of existing damage to the walls. There was black mould throughout the property. The surveyor concluded that the damage had not been caused by a pigeon or a one-off event.*

*The surveyor's report includes photographs of the outside of the house and inside the conservatory. I can see there is a patch of gaffer tape on the roof. But Mrs H had said in the call that her husband had put tape on the roof.*

*I can see there was also quite a lot of black mould inside the conservatory, and I note the surveyor referred to "a massive condensation issue in the conservatory and a lot of existing water damage to the walls".*

*Black mould can grow quite quickly, so I think it's possible that this wasn't noticeable prior to the alleged incident with the pigeon, even if there was a pre-existing damp issue. Given what the surveyor has said about age-related damage, I think it's likely that there was a pre-existing issue with condensation. But that doesn't persuade me that Mrs H was dishonest when she told LV's representative that she hadn't noticed any "water ingress" or "damage to her conservatory roof" before she took out the policy. Condensation isn't the same as water entering the property through a roof.*

*LV has suggested Mrs H changed the start date of the policy from 1 December to an earlier date because she knew of an issue that would warrant her claiming. When the LV representative asked her why she'd changed the start date, Mrs H said her husband said to start it on 1 December because it was easier for him to remember, and he was paying for the policy. She told LV the reason she called to bring the start date forward was because they were worried about their heating breaking down and they wanted to be able to claim on the home emergency insurance. I think this was a plausible explanation. I also understand the date was changed only a day after Mrs H had decided to take out the policy. So, I'm not persuaded that the change in start date is evidence that Mrs H was committing fraud.*

*LV has also commented that the delay in reporting the claim doesn't stand up to scrutiny, considering the extent of contact post-claim and the fact Mrs H had contacted Home Emergency about heating issues. It says this behaviour seems inconsistent and is not reflective of someone genuinely concerned over a one-off incident that has caused damage to their home post inception, more of someone trying to extend the time since inception to avoid suspicion.*

*I've considered what LV has said here. But in the call with LV and subsequent conversations with our investigator, Mrs H referred to having a lot on her mind and struggling with her mental health. I think sorting out the heating that wasn't working would have been a priority for her, but the damage to the roof likely didn't become a priority until she became aware it was leaking. Mrs H told LV that she hadn't initially thought to claim for the damaged roof and had only done so after a relative had suggested that her insurer would sort it out for her. I can see that Mrs H chased LV for an update two days after making her claim, but it's noted that she was worried about the damage getting worse due to bad weather. In her call with the representative from LV's fraud team, Mrs H said it had snowed a couple of days before, it had also been raining and her books were getting wet. So, I think it's understandable that she would have been concerned if rainwater was entering the roof at that point.*

*Mrs H also mentioned that one of the reasons she hadn't claimed earlier was that she wasn't sure if the damage would be covered. She thought the cost of repairing the roof wouldn't be much more than the policy excess. She said she thought LV would tell her if it would cover her or it wouldn't. She'd wait for the surveyor to come and tell her.*

*There wasn't any discussion about the damage Mrs H was claiming for in her call with the representative from LV's fraud team. Given what she said about the excess, I think Mrs H was only expecting LV to carry out repairs to the roof if her claim was successful.*

*LV has commented that Mr and Mrs H became irate towards the surveyor when he explained the damage appeared to be longstanding and did not agree with his findings. It says this is further proof that they went to some lengths to try and misrepresent the damage.*

*I can see the surveyor commented that Mr and Mrs H became quite irate during his visit and "didn't like the fact that I said the damage is existing damage that had been going on for a long time and a pigeon would not fit into a polycarbonate sheet." But there's nothing to tell me exactly what was said. Mr and Mrs H may have become irate during the conversation with the surveyor. But I don't think this shows their claim was fraudulent.*

*I appreciate there were several factors that caused LV to be suspicious of Mrs H's claim. But I'm not persuaded there was enough evidence to show that it was more likely than not a fraudulent claim. So, I don't think LV's decision to invoke the fraud condition was reasonable.*

*The surveyor's report supports LV's conclusion that the damage was not as the result of a one-off event. And Mr and Mrs H have provided no expert evidence to counter this. So, I*

*don't think LV's decision to decline their claim was unreasonable. However, I don't think it was fair for LV to cancel Mr and Mrs H's policy and record their details on a fraud database.*

*Mrs H says she didn't try to take out another policy for a while. When she tried to take out insurance with another insurer, it cancelled her policy because she didn't declare the cancelled LV policy. She says she wasn't aware that LV had recorded her claim on a fraud database until later on when she was finding it difficult to get insurance elsewhere.*

*I'm satisfied that LV told Mrs H it had cancelled her policy, and it might pass on information to fraud prevention agencies in December 2020. Mrs H would likely have been required to tell her new insurer about the cancellation. So, I don't think it would be fair to hold LV entirely responsible for the other insurer's decision to cancel the policy she subsequently took out.*

*However, I think Mr and Mrs H have experienced avoidable distress and inconvenience as a result of LV's decision to cancel their policy and record fraud on the database. Mrs H contacted LV several times about these issues. Not only have they found it difficult to get buildings insurance, but Mrs H says it's also limited the motor insurance policies they can take out. Having listened to recordings of telephone conversations with LV and our service, I'm also persuaded that Mrs H is vulnerable due to her mental health issues. And I think the impact of LV's mistake on her was greater because of this. So, I think LV should pay Mr and Mrs H £400 for distress and inconvenience."*

I set out what I intended to direct LV to do to put things right. And I gave both parties the opportunity to send me any further information or comments they wanted me to consider before I issued my final decision.

## **Responses**

Mrs H didn't respond to my provisional decision.

LV said it was willing to accept my provisional decision. But it questioned whether a perceived vulnerability (identified by the Financial Ombudsman Service) which had never been mentioned to it or highlighted to it by the policyholder until after challenging questions was enough to use as a defence without proof. LV asked how the insurance industry could prevent fraudsters providing misleading statements and then relying on such perceived defences in the future as a get out. It asked if it was the case that everyone is believed based on perception alone. It said it asked this question in the case of concerning claims only, where there were valid concerns.

LV said the fact that Mrs H held no insurance prior to taking out this cover, then answered in a vague manner when questioned directly was all being attributed to possible vulnerabilities.

## **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.

The Financial Ombudsman Service decides each case on its own merits. In this particular case, I don't think LV's decision to treat Mrs H's claim as fraudulent was fair. But that doesn't mean that it would *always* be the case that a consumer could rely on a perceived vulnerability as a defence against an accusation of fraud.

I appreciate the LV representative who spoke to Mrs H in December 2020 was of the opinion that Mrs H's answers were vague because her claim was fraudulent. However, I explained in my provisional decision why I felt the way Mrs H answered LV's questions was more likely to

be due to her mental health issues. While I understand LV's concern that Mrs H didn't have insurance prior to taking out the cover, I don't think that was enough to conclude that the claim was fraudulent.

While it isn't my role to determine whether Mrs H acted fraudulently, I need to consider if LV has acted fairly and reasonably. An accusation of fraud is very serious. In the circumstances of this case, I don't think LV had shown that it was more likely than not that Mrs H had committed fraud. So, I think it would be fair for LV to put things right in line with what I said in my provisional decision.

### **Putting things right**

LV should:

- Remove any record of the policy being cancelled by LV from internal and external databases.
- Remove any recording of fraud from internal and external databases.
- Provide Mr and Mrs H with a letter confirming the above.
- Pay Mr and Mrs H £400 for distress and inconvenience.

### **My final decision**

For the reasons I've explained, I uphold Mr and Mrs H's complaint and direct Liverpool Victoria Insurance Company Limited to put things right by doing as I've said above.

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

Anne Muscroft  
**Ombudsman**