

## **The complaint**

Mrs N's representative complains on her behalf that Liverpool Victoria Insurance Company Limited trading as LV (LV) unfairly declined her claim on her home insurance policy for malicious damage.

References to Mrs N, or her representative, will include the other.

There are several parties and representatives of LV involved throughout the complaint but for the purposes of this complaint I'm only going to refer to LV.

## **What happened**

Mrs N's representative organised for a building contractor, to carry out a survey to establish the cause of damp at their property. A written quote for repairs to the roof of the property was obtained. This repair work wasn't related to any insurance claim. The repair quote of £2,775 for emergency repairs was verbally accepted and the building contractor erected scaffolding the same day. Prior to any repair work starting Mrs N's representative was concerned about the safety of the scaffolding. He contacted the building contractor and asked them to supply insurance and health and safety documentation before starting any work. He was told at this time that a new roof was required and advised this would cost £25,000. Mrs N's representative asked for a formal quote.

Early the next day the building contractor and a team of labourers attended Mrs N's property to start the repairs. She was told even more work was required and the cost of the repairs would be £47,200 net of VAT. Mrs N didn't accept the quote and told the building contractor not to proceed with any further work. She was at home alone and was very intimidated, so she made some phone calls to obtain immediate professional advice. Whilst she was undertaking this, in less than 30 minutes, the building contractor's labourers removed most of the slates from her property roof without her permission. Mrs N's representative said the slates were ripped off, breaking them, or enlarging the nail holes making them unusable and this wasn't normal practice for any reputable roofer.

The building contractor was asked to make the roof secure and watertight whilst Mrs N obtained further estimates for the repairs, however they left leaving the roof uncovered. The incident was reported to the police.

Mrs N then made a claim on her home insurance policy for the damage to the slates from her roof caused by the builders. LV concluded there was no evidence of an insured peril being in force and therefore it was unable to consider the damage under the terms of her policy and it declined to settle her claim.

Because Mrs N's representative was not happy with LV, he brought the complaint to our service.

Our investigator did not uphold the complaint. They looked into the case and said the intent here was to increase repair costs, rather than to cause harm to Mrs N. Therefore the circumstances didn't amount to the requirements of the malicious damage/vandalism peril

section of the policy.

As Mrs N's representative is unhappy with our investigator's view the complaint has been brought to me for a final decision to be made.

### ***What I provisionally said***

*In this case LV hasn't settled Mrs N's claim because it said the damage was caused with the intention to commit fraud by the building contractor by inflating the cost of the repairs required. It said this is not covered by the terms of the policy.*

*Mrs N's representative said the act of causing damage to the slates on her property roof with the intention of inflating the cost of repairs and ultimately committing fraud is malicious damage and should be covered as vandalism under the terms of the policy.*

*I've thought carefully about the available evidence when determining if LV has acted fairly in declining this claim.*

*The incident was reported to the police on the day it happened, and a crime number was obtained as per the requirements of the policy terms and conditions. The crime was passed to trading standards. The police support officer who attended to offer support to Mrs N said the incident was both fraud and malicious damage by the building contractor. The police accept that damage occurred and explained it was categorised as fraud by them because they only categorise the most serious offence, which in this case they considered was fraud. So, it seems to me there's clear evidence to support the building contractor did cause damage to Mrs N's property.*

*I looked at the terms and conditions of the policy and malicious damage/vandalism isn't specifically defined. Our Service has an established approach when looking at these sort of terms when they're not defined in a policy. Malicious damage is damage caused to a property intentionally by another person. It is also sometimes known as vandalism.*

*Generally, our Service considers damage to be malicious if the person who damaged the property intended to do harm.*

*In this case the damage to the roof of Mrs N's property was caused by the building contractor when their labourers smashed off 80% of the roof slates in less than 30 minutes, without her knowledge or agreement.*

*I have seen a statement from another roofer that says 70-80% of slates can usually be reused if removed correctly. I saw the majority of the slates from Mrs N's property roof were damaged beyond being used. Mrs N's representative said they had recently had a similar slate roof on the porch removed with a 75% recovery rate. I've been given nothing to conflict with the version of events given by Mrs N so it strikes me that the building contractors actions were most likely to intentionally damage given the description of smashing the slates and the speed in which the actions were taken against Mrs N's request.*

*In LV's claim file I saw its loss adjusters report said "All new slate will be required for the full roof along with scaffolding". I saw it initially considered it could cover the slate replacements under malicious damage, but that any other issues would need to be covered by Mrs N. However after consideration it decided not to settle the claim because the damage was caused with the intention to commit fraud by the building contractor.*

*Although I recognise the ultimate intention of the building contractor may have been to inflate the cost of repairs required to Mrs N's roof, which would be seen as fraud, I am persuaded*

*there is enough evidence in this case that the building contractor deliberately caused damage to the slates during the very quick process to remove them. This was done without the permission of Mrs N. Therefore I consider the act of smashing the slates should be seen as malicious damage and that the cost of replacement slates be covered under the terms of the policy.*

*I recognise LV's argument that the building contractor intended to do harm, but with the intention of committing fraud. But it's been unable to point to any terms in the policy that allow it to make this distinction. And as I see it currently, and as I've outlined above, malicious damage has taken place in line with the policy terms.*

*Therefore, I intend to uphold Mrs N's complaint and intend to require LV to accept the claim for damage to the roof slates as malicious damage under the remaining terms and conditions of Mrs N's policy.*

*Mrs N's representative has confirmed the necessary re-roofing has now been completed by a reputable builder, therefore evidence of the costs paid relating to the damaged roof slates should be considered. Mrs N will most likely need to provide this evidence to LV for it to consider.*

### **Responses to my provisional decision**

LV responded to say it accepted the provisional decision. It asked for confirmation if it is required to reimburse the labour and material costs of replacing the roof slates, including any scaffolding if that was used.

Mrs N's representative responded and said they would be pleased for the case to be resolved on the basis of my 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.

### **In response to LV's comments**

Yes, I require LV to reimburse the cost to replace the damaged slates and in addition the cost of the labour to replace them. I do not require LV to pay for any other materials other than the slate, or for labour costs for any other work undertaken to the roof. I also think it fair and reasonable for it to pay 50% of the cost paid for any scaffolding used.

This will be subject to evidence of costs charged and proof of payment to the builder who carried out the re-roofing, Mrs N will need to provide these to LV for validation if it deems this necessary.

As both Mrs N's representative and LV have accepted my provisional decision, I therefore maintain my provisional decision and I uphold Mrs N's complaint.

### **Putting things right**

I require LV to accept Mrs N's claim for the damaged roof slates as malicious damage under the remaining terms and conditions of her policy. Subject to evidence being provided by Mrs N as deemed necessary by LV.

**My final decision**

For the reasons I have given I uphold this complaint.

I require Liverpool Victoria Insurance Company Limited trading as LV to accept Mrs N's claim for the damaged roof slates as malicious damage under the remaining terms and conditions of her policy. Subject to evidence being provided by Mrs N as deemed necessary by LV.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 15 April 2025.

Sally-Ann Harding  
**Ombudsman**