

complaint

Mrs D complains that Legal & General Insurance Limited (L&G) won't meet her claim for storm damage to her property. She made a claim under her home insurance.

background

I issued my provisional findings on this complaint in late 2019. A copy is attached and forms part of this decision. In summary I thought that L&G had fairly decided not to meet Mrs D's claim as the expert report it had relied upon concluded that the damage to Mrs D's home was the result of the design of the roof and water collection system, and the damage had been building up over a long period of time.

I did think L&G should have done more to help Mrs D, as it knew she was abroad when the claim was first registered and had offered to contact a family member about emergency cover. It didn't do that. So I suggested it pay £250 compensation for that.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

L&G says it doesn't think it should have to pay any compensation. It says it was simply trying to help Mrs D's mother access any help that might be available under a home emergency policy before Mrs D returned home. L&G says the home emergency policy isn't its responsibility, and it had no obligation to help Mrs D (via her mother) with this.

I understand that argument, but it remains that L&G *did* say it would help with this. And then it gave up trying to contact Mrs D's mother because her phone line was engaged on one day. I still think L&G – once it had said it would help – should have carried that promise through. It didn't do that, and the compensation remains appropriate.

Mrs D has sent a comprehensive response. I'm not going to comment on all of it, but I have considered everything Mrs D said. Instead I'll comment on the main points she made.

Mrs D says the surveyor used by L&G might not be an "expert". I think this is something L&G is entitled to decide when it decides which professional company to use to carry out surveys on its behalf. Mrs D says instead that the builder – also sent out by L&G – must be an expert. I haven't seen anything that persuades me the builder is better qualified to reach a conclusion on whether the roof was storm damaged than the surveyor. I still think L&G is entitled to rely on the surveyor's opinion.

For storm damage to be accepted as a cause of damage on a property, it's generally accepted that the damage must be able to be linked to a storm that occurred immediately before the damage is noticed. And there must, as I said before, be signs of damage. I accept that following a repair to a tiled roof Mrs D doesn't think there's any water getting into her home. But that in itself doesn't mean the damage was storm related.

Mrs D has provided details of several storms and bouts of bad weather that affected the area where she lives over the three months before she made her claim. I accept that – if there was storm damage – that it might have been caused by one of the earlier bouts of bad weather. But as I said previously, the report from the surveyor L&G used didn't highlight any

of the sort of damage normally seen after a storm – such as damaged tiles, for example. Mrs D's builder seems to have told her the damage was beneath the tiles – which isn't something normally associated with storm damage if the rest of the roof isn't obviously affected. Mrs D did tell us about some potentially lifted lead flashing between the wall of the house and the tiled roof, but that isn't mentioned on the surveyor's report. L&G's notes show Mrs D was given the opportunity to provide an independent report on the cause of damage, and that L&G would reimburse any reasonable cost if the claim was then accepted. Independent in these circumstances wouldn't normally include someone liable to get work as a result of the report – so not the builder who looked at the roof. Mrs D hasn't provided an independent report.

Mrs D told L&G that there was no apparent internal damage in her home before she went on holiday. However, the photos provided by the surveyor show extensive damage that normally takes months to develop. So although I don't doubt Mrs D's recollections, I still remain persuaded that the damage had been building up gradually over a long period of time – possibly for years. And although Mrs D's policy does cover her for damage that builds up unnoticed over time, damage caused to the building by water getting into the house unnoticed is excluded from this cover. So I won't be asking L&G to meet the claim.

Mrs D says her contents insurance *does* cover items damaged by water. From the reports I've seen, the damage is confined to things that are part and parcel of the building. I say that because the usual way to differentiate between "contents" and "buildings" in home insurance is that contents are removable – in other words you would take them with you if moving house. None of the damage in Mrs D's house seems to be for contents. I can't see that L&G are aware that there *was* damage to contents, so it doesn't look as though it will have considered this point. Mrs D could discuss this with L&G if she thinks some of her contents were damaged – although that doesn't necessarily mean L&G will be obliged to meet a claim.

my final decision

My decision is that I uphold this complaint and I order Legal & General Insurance Limited to pay £250 compensation for the poor service it provided. I make no order for payment of the claim itself.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 18 March 2020.

Sue Peters
ombudsman

Copy of provisional decision December 2019

complaint

Mrs D complains that Legal & General Insurance Limited (L&G) won't meet her claim for storm damage to her property. She made a claim under her home insurance.

background

Mrs D lives in a terraced house with a main roof that isn't tiled – it's has a flat roof type covering. The way the houses have been built means there are pitches on the roofs which join at gullies that run from the front to back of the house. The gully collects rainwater which drains into a hopper. That hopper then allows water to run freely across a tiled roof at ground floor (ceiling) level before being caught in guttering and then a downpipe.

In December 2018, Mrs D was on holiday when she received a message from one of her children that part of her lounge ceiling had collapsed. She contacted L&G but communication was difficult. She then spoke to L&G a couple of days later and gave L&G her mother's contact details so emergency repairs could be arranged. L&G tried to contact Mrs D's mother on 10 December to arrange temporary repairs, but were unsuccessful.

L&G did agree to look at Mrs D's claim, and sent a surveyor out on 14 December. That surveyor thought the damage was long standing and had built up because of the design of the roof. He thought the hopper meant to collect rainwater was being overwhelmed, leading to water running down the walls of the building and causing damage. The surveyor also thought the internal damage must have been apparent for some time, given the extent of it and its nature.

L&G said it wouldn't meet the claim. It said although there had been a storm around the time the internal damage occurred, the main cause of the damage was the design of the roof and drainage system. It also said that, although Mrs D had accidental damage cover for damage that might have built up unseen, her policy specifically excluded damage caused by water getting into the building.

Mrs D said that the business that eventually carried out a temporary repair to a tiled part of her roof said the damage was storm related – and that Mrs D wouldn't have seen it because it was a problem under the tiles. And she also says that the repair – which is a tarpaulin over the tiled area – has prevented rain getting in, which supports her argument that it's the tiled area of the roof that has failed, not the drainage system.

Mrs D complained to L&G but it didn't change its stance, so she brought her complaint to this service. Our investigator didn't think the complaint should be upheld, as she thought L&G had fairly relied on the report from its surveyor.

Mrs D remains unhappy about this, so I've been asked to decide this complaint.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I think there are two parts to this complaint. They are whether the service Mrs D received was acceptable, and whether L&G can fairly decline the claim.

service

The first record I can see of L&G talking to Mrs D is 10 December 2018, although she says she contacted L&G a couple of days before this. It might be that L&G didn't record that call if communication was difficult. But by 10 December L&G had been asked to contact Mrs D's mother to arrange emergency repairs – or at least explain to her how she could do that. It did that because Mrs D was still on holiday.

From the notes L&G sent, it seems the insurer tried to contact Mrs D's mother on the 10 December. It didn't get an answer, and seems to have simply given up trying to make contact. The next notes I can see are from the 14 December when it appears L&G's surveyor went to look at the property. A few days later L&G said it wouldn't meet the claim. There's no further mention of emergency repairs in L&G's notes.

Mrs D told us she was left to chase to get the emergency repairs done when she returned home – and they weren't carried out until the 21 December. Mrs D says the delay made the damage much worse.

Unlike our investigator, I think L&G should have done more than it has here. It knew Mrs D couldn't take control of the repairs because she was away. I think L&G should have contacted Mrs D's mother – or at least tried to – every day until it reached her, or until it began speaking directly to Mrs D.

I think L&G has failed to provide an acceptable service to Mrs D. And I currently think it should compensate her for that.

I have considered whether the delay in appointing someone to do the temporary repairs caused further damage inside the house. The photos I've seen were taken four days after the damage was reported. I've looked at the weather records for these days and there was virtually no rain. So I think the photos show the damage as it was when the claim was first made. There was another week before the temporary repairs were carried out, and it did rain during that week. But I can't say the cost of repairs would have gone up even if some more water had got in before the temporary repair was carried out. The photos show several areas of damage that need extensive repairs. I think it's unlikely these would be more expensive after a further week. In other words it's likely the same repairs would be needed in either scenario.

My current thinking is that L&G should pay £250 compensation to Mrs D for the additional upset it's caused her by its failure to ensure that communication was made about the claim.

damage

Mrs D says L&G brought up the subject of storm damage. She says she wasn't in a position to know what had caused the damage as she was out of the country. I think that's a fair comment, although it doesn't affect my decision.

For Mrs D to make a successful claim she needs to show that an "insured event" has taken place, and that's what caused the damage. Storm damage is one of the insured events listed in Mrs D's policy, and it's likely the only insured event that applies, given the damage that

was reported. L&G may only have *thought* the damage was storm related, as records show there was a storm around the time the damage was reported. But in any event it sent a surveyor to look at the damage, so it could check that Mrs D had a valid claim, and, if so, whether it should meet that claim based on her policy terms and conditions.

I think that's a reasonable way for L&G to assess the situation. I also think it's fair for L&G to rely upon the report it receives from its surveyor, who is expert in this area. After the visit, L&G said it wouldn't meet Mrs D's claim. In doing that, it relied on an exclusion clause in Mrs D's policy, which says it need not pay for damage that built up gradually, through general wear and tear, or is the result of poor design.

I've looked at the report and the comments in it do seem to reflect the evidence shown in the photos. There isn't much, if any, damage apparent to the tiled roof in those pictures. But there is evidence of damage to the brickwork of the house – discolouration and mould or moss. That suggests the hopper hasn't been functioning properly, and water has been running down the brickwork for some time. It appears it's been running down the main face of the property either side of a down pipe, and also on a side wall close to where the downpipe allows water to run freely over the tiles. Those areas do seem to coincide with the internal damage.

The damage both inside and outside the house looks like it's built up over a long period of time. It might be that the last storm was the final straw, which is why the ceiling collapsed. I don't currently think the storm was the main – or only – cause of the damage. I accept the contractor who carried out the temporary repair said there was a problem with the tiled roof, but I haven't seen anything to support this opinion – like photos from before the repair. Mrs D says the surveyor didn't report his findings on the tiled roof properly. She says he ignored the tiled roof as he knew it and the lead flashing had suffered damage. I don't know how closely the surveyor examined the tiled roof, but he must have looked at it because he's sent photos of it. And as I said before, I can't see any evidence of the sort of damage that might be caused by a storm.

Mrs D says the surveyor said the main roof was letting in water but that as the temporary repair (to the tiled part) has prevented further leaks, that can't be right. The report I've seen doesn't say the main roof itself is faulty. Instead it refers to the drainage system, and that this is failing when rainwater builds up. If the temporary repair is keeping water out it might suggest the tiled area is also a problem, but as I said above, I can't see any of the usual signs of storm damage. Roofs do have a limited lifespan, so it may simply be that this one has reached the end of its useful life. I'm afraid that isn't something Mrs D's insurance covers.

Overall, I currently think L&G was reasonable when it said the exclusions mentioned above – gradual damage and poor design – meant it didn't have to meet Mrs D's claim.

my provisional decision

I'm intending to uphold this complaint in part, and ask Legal & General Insurance Limited to pay Mrs D £250 for the impact on her of the poor service she received.

Sue Peters
ombudsman