

## **complaint**

Mr H is not happy with the settlement he has been offered by Lloyds Bank General Insurance Limited for his home insurance escape of water claim.

## **background**

The background to this matter is set out in my provisional decision of May 2015, a copy of which is set out below and forms part of this final decision.

Lloyds is happy to agree to pay £3145 plus VAT (as long as a VAT registration number is supplied) plus 8% simple interest.

Mr H agrees my decision subject to my directing the payment to be made to the claims management company (CMC) he instructed.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

As both parties have essentially agreed my decision, I won't make any further comments.

I won't direct the payment to be made to the CMC, but I can't see any problem with Lloyds doing this. I believe it has already had a copy of the mandate signed by Mr H in this respect. Mr H or the CMC will need to produce a VAT invoice.

## **my final decision**

My final decision is that I uphold the complaint and direct Lloyds Bank General Insurance Limited to:

- pay to Mr H (or as he directs) £3145 plus VAT, a total of £4340.10, in settlement of his claim, and
- add to the above sum interest at the rate of 8% simple per year (less any tax properly deductible) from the date of loss until the date of payment.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 3 July 2015.

Ray Lawley  
**ombudsman**

## PROVISIONAL DECISION

### complaint

Mr H is not happy with the settlement he has been offered by Lloyds Bank General Insurance Limited for his home insurance escape of water claim.

### background

Mr H had water damage to his property in 2013. Lloyds accepted the claim and agreed the schedule of works with Mr H. He then instructed a claims management company (CMC) who arranged an estimate. That estimate was over three times as much as the amount Lloyds estimated it would cost it to carry out the work. Lloyds was prepared to cash settle using its own estimate. Mr H obtained three further estimates, the cheapest one being more than twice as much as Lloyds' estimate.

The CMC referred the complaint to this service. Our adjudicator thought that Lloyds had acted reasonably in either offering to repair the house itself or to cash settle for what it would have cost it.

The CMC didn't agree. It said:

- Lloyds' estimate was so far below Mr H's cheapest estimate that its contractor couldn't possibly do the work to a proper standard.
- The policy doesn't say that the policyholder can't use his own tradesman. It says that if we instruct any tradesman, we will do so on your behalf.
- It believes the terms of the policy infringe the Consumer Protection from Unfair Trading Regulations by not allowing Mr H to instruct his own contractor.
- Mr H didn't ask for a cash settlement, he merely wants to use his own appointed contractor.
- Lloyds has accepted and is bound by the mandate between Mr H and the CMC, which requires that any repairs must be carried out by the CMC.
- A previous decision by this service, in similar circumstances, required the insurer to pay the difference between its estimate and that of the consumer's own contractor.

The matter has been referred to me for a decision.

### my provisional findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

When settling a claim an insurer will either arrange to repair the damage or pay the consumer the cost of carrying out the work. How it does this and what option it chooses depends on the wording in the policy. Here the policy says:

*"We will pay the cost of rebuilding or repairing the part of your home which is damaged but not more than the cost of completely rebuilding it in its original form. If we instruct any tradesman, we will do so on your behalf.....We have the option of giving you a cash payment instead of repairing or rebuilding your home if your home cannot be economically repaired or you elect not to repair the damage".*

I have to decide what "we will pay the cost" means. Normally I would expect the policy to say whether the insurer has the option of repairing or paying a cash settlement. The wording here restricts Lloyds to giving a cash payment if the home can't be economically repaired or Mr H elects not to repair the damage. That is clearly not the case here. I don't think it is fair to imply into the wording here that

Lloyds can offer to pay what it would cost it to instruct its own contractor. The policy clearly allows for Lloyds to pay the cost or to instruct a tradesman. As it is not clear I think it can reasonably be interpreted as allowing the consumer to choose. This means that if he chooses to receive a payment, it must be what it would cost him to repair it.

Mr H has chosen to instruct his own contractor. I think it is fair that Lloyds should pay the lowest estimate he has produced, that is £3145 plus VAT. This is a cash settlement. I don't think it fair that Lloyds should have to instruct the contractor, so Mr H will be responsible for doing that. I imagine that's what he wants anyway.

I don't accept Mr H's argument that he can't trust Lloyds' contractor to do the work to a proper standard. Both parties had agreed on a schedule of works. If Lloyds was to instruct its own contractor it would be responsible for the quality of the work.

I don't intend to address the CMC's other arguments, although I would say that the mandate does not bind Lloyds to do anything. This decision is based on my interpretation of the policy wording in the particular circumstances of this complaint. It shouldn't be taken to mean in general that a consumer is free to instruct and get paid for his own contractor.

I have considered whether to make an award for compensation. But I won't do so in this case. Mr H will be compensated for the late payment of his claim by Lloyds paying interest on the settlement.

#### **my provisional decision**

My provisional decision is that I propose to uphold the complaint and to direct Lloyds Bank General Insurance Limited to:

- pay to Mr H of £3145 plus VAT, a total of £4340.10, in settlement of his claim, and
- to add to the above sum interest at the rate of 8% simple per year (less any tax properly deductible) from the date of loss until the date of payment.