

complaint

Mr L complains that Ageas Insurance Limited (Ageas) won't meet his claim for water damage after the void under his house and a storage area were flooded.

background

I issued a provisional decision on this complaint in December 2015, and a copy is attached. I was minded to uphold Mr L's complaint and order Ageas to pay 75% of the cost of repairing – on a permanent basis – the damp in Mr and Mrs L's home. I also thought Ageas should pay Mr L £500 compensation for the way it dealt with his claim.

my findings

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

Mr L says he's had the remedial work done on his "best room" – the one he was claiming for – and it's cost about £11,000. He thought my suggestion was fair.

Ageas says it doesn't have anything else to add.

On this basis there's no reason for me to change my provisional decision. Subject to Mr L providing the relevant receipts, Ageas should meet his claim.

my final decision

My decision is that I uphold this complaint.

Ageas Insurance Limited should now pay Mr L 75% of the cost of repairs plus the normal statutory interest at 8% (backdated to the date Mr L reported the problem) as usually applied to cash settled claims. It should also pay Mr L £500 compensation for the way it handled the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 8 February 2016.

Sue Peters
ombudsman

copy of provisional decision

complaint

Mr L complains that Ageas Insurance Limited (Ageas) won't meet his claim for water damage after the void under his house and a storage area were flooded.

background

Mr L took out his insurance policy through an insurance agent. The policy was with Ageas until 2012, then transferred to another insurer from 2012 to early 2014. It was transferred to Ageas again in January 2014. In February or March Mr L realised there was water under his house and he installed a "sump and pump" arrangement to keep the water at bay. A few months after this he realised there was significant damp in a room that he and his wife don't use very often.

Ageas investigated Mr L's claim but said it thought the damage was longstanding and mostly down to a faulty damp proof course (dpc) and guttering. It said it wouldn't pay Mr L's claim and suggested he approach his old insurer as the problem might have started whilst he was insured by them.

Mr L did that but was again rejected. So he complained to both companies and then to this service.

Our adjudicator thought Ageas should meet Mr L's claim. He said that the likely cause of the flooding was a rising water table – and that wasn't excluded in the Ageas policy. So he thought Ageas should deal with the claim – and pointed out that its work might need to go beyond simply rectifying the damp, as this was unlikely to prove to be a permanent repair unless future flooding was also prevented. He thought Ageas should also pay Mr L £500 compensation as he and his wife have suffered water damage for a long time because of the way Ageas initially handled the claim.

Ageas has objected to this, saying that as Mr L thought the problem was caused by a flood shortly before it started to insure him any remedial work was the responsibility of the previous insurer.

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.

why should Ageas look at this claim?

It's generally accepted that a current insurer should look at a claim for a customer unless there's clear evidence that damage caused by an "insurable peril" (in this case a flood) was whilst a previous insurer held the risk.

In this case I think the responsibility lies with Ageas. That's because:

☐ Although Mr L says he recalls water running off the road and under his house from just before he changed insurers, there's no supporting evidence to show that there was a flood at the time or that it caused damage to Mr L's home. So it might be that Mr L has mis-remembered the event. I don't think it's certain who was insuring Mr L when the problem first started.

☐ What is clear is that Mr L and his wife didn't realise there was a problem until some time later – when he installed the pump. That was about March/April – so some time

after Ageas started to insure him.

□ The more extensive damage – the damp – wasn't reported to Ageas until June. That's because Mrs L was seriously ill and Mr L was understandably more concerned about this.

□ From the reports I've seen, the problem is ongoing – in late 2014 a surveyor noted that water was running under the floorboards during heavy rain. As the damage continues to accrue I think that places it under Ageas' responsibility.

Ageas is of course free to seek a contribution from Mr L's previous insurer if it thinks that appropriate. But I don't think it's fair to ask Mr L to negotiate between two insurers.

should Ageas pay all or part of this claim?

Ageas sent a surveyor out to look at the property in mid 2014. The results of that were, in summary, that the surveyor thought it possible the local water table had risen because of heavy rain, which allowed water into the sub floor void. We don't know when that started – but we know Mr L became aware of it in early 2014 and it continues to be a problem. Put simply, Mr L's house is being flooded regularly and what was once a dry void is now wet – with the associated problems.

Ageas' policy doesn't define what a "flood" is. As our adjudicator said, I also think it can include a sudden influx of water (a river bursting its banks) but also a rising water table leading to intermittent flooding, where a property was dry in the past.

Ageas' surveyor says a performing dpc would have prevented damp occurring. I'm not convinced it would, for two reasons:

□ Water under floorboards would still affect a room with an effective dpc in the walls through condensation, etc, and

□ There's no suggestion in the proposed remedial works to stop the problem by means of a dpc in the walls. Instead the rooms need to be tanked and the floors replaced.

There are parts of the survey which talk about other possible causes of damp – for instance an improperly capped and ventilated chimney and defective guttering. Those are contradicted by Mr L's specialist. He said there was nothing wrong with the gutters which were working well during heavy rain. I've looked at the photos Ageas provided and I can't see any evidence – such as staining on the walls - of failed gutters on those, despite the surveyor mentioning this. The specialist says he also checked the chimneys and the one that would have affected the damp in the "best" room is properly capped. Again I've looked at the photos taken by Ageas' surveyor and the chimneys do have caps. Overall I'm currently more persuaded by the specialist who looked at the performance of the gutters etc during rain than the one who didn't.

However, Mr L's specialist also says that at least one wall in Mr L's house is suffering from penetrating damp because it takes the brunt of the wind and rain. I think that's a maintenance issue rather than an insurance one – so I wouldn't expect Ageas to pay for that – nor for any other damp above the ground floor rooms (if any).

I think a fair resolution to this complaint is for Ageas to pay for repairing the damp in the ground floor rooms excluding the wall suffering from penetrating damp.

I also think that Ageas has a responsibility to ensure the repairs are long lasting. I don't think that can be achieved without doing the additional work needed to keep water out of the rooms. So I think it should also pay 75% of the cost of tanking the downstairs rooms and for

replacing the floor in full.

I've reduced the amounts to take into account the fact that some of the damp isn't entirely the result of the flooding.

I'm also intending to ask Ageas to pay Mr L £500 compensation as the adjudicator suggested. That's because he's had to live with this problem for a long time and that could have been prevented if Ageas had acted differently.

my provisional decision

My provisional decision is that I intend to uphold this complaint and order Ageas Insurance Limited to pay Mr L as outlined above.

Sue Peters
ombudsman