

complaint

Mr T's complaint is about the cash settlement offered by Legal & General Insurance Limited for a claim under his home insurance policy and about the way his claim was handled.

background

Mr T's boiler was leaking over a long period. It caused damage to his lounge, hallway, landing and a bedroom. Legal & General appointed a loss adjuster who investigated the claim.

The carpets in the lounge and hallway were ruined. The leak also affected the floor tiles on the ground floor. These were found to contain asbestos and needed specialist removal. The property needed to be dried out which resulted in some cracking to the damp walls. This needed to be repaired and redecorated.

Legal & General agreed for Mr T and his family to move into alternative accommodation for several weeks while the asbestos tests and removal took place. This took 40 days. In fact Mr T and his family stayed in alternative accommodation for another 47 days.

Legal & General thought they could have moved back home during that further period but accepted that it would have been difficult to use the kitchen which had furniture from other rooms stored in it.

Mr T agreed with Legal & General that he'd carry out the reinstatement and redecoration works. The loss adjuster drew up a schedule of works and based on that Legal & General offered Mr T a cash settlement of £22,585. It made an interim payment of £13,375 net of the policy excess of £350 about two months into the claim and paid the balance about a month later.

Mr T complained to Legal & General about various issues including:

- the cash settlement offered to him was based on schedules of works and a quotation for carpets and flooring which he hadn't seen;
- he thought it should pay alternative accommodation for the further 47 day period because a lot of furniture from his lounge and dining room had been placed in storage and the kitchen was full of furniture from the hall;
- the alternative accommodation costs didn't include evening meals; and
- he wanted to be paid for the additional time spent and costs incurred in sorting out his claim due to Legal & General's handling of it.

Legal & General said:

- it could provide a schedule of works but it wouldn't tell Mr T the cost rates because that was commercially sensitive information;
- it wouldn't pay Mr T's alternative accommodation costs for the further 47 day period because the asbestos had been removed and the house could be lived in;
- it would pay an allowance of £30 a day for the family's meals for the period it had agreed to pay alternative accommodation costs and £40 a day during the following 47 day period; and
- it wouldn't pay for Mr T's time but agreed a further £50 to cover phone calls and letters.

my provisional findings

I issued a provisional decision which set out the reasons why I was minded to uphold the complaint in part. The relevant excerpt from my provisional decision is set out below.

“There are several issues still in dispute between the parties and I'll address each of them separately.

settlement amount

Legal & General has paid Mr T £22,585.14 in respect of the claim. I can understand that Mr T wants to know the basis on which this sum has been calculated. Legal & General has now agreed to provide him with a schedule of works so that he can check that it includes all the claim related repairs. If he sees that any have been left out, he can ask Legal & General to adjust it accordingly and if for any reason it doesn't do so, Mr T would be entitled to bring a further complaint to this service.

I don't think Legal & General acted unreasonably in refusing to provide details of its contractors' rates. Insurers like Legal & General have far greater bargaining power than ordinary consumers and they use that to agree more favourable rates than a consumer would normally get, which in turn helps keep down the cost of insurance premiums. I agree with Legal & General that this is commercially sensitive information and it shouldn't have to provide it to Mr T. But it has provided it to this service and I can see that the cash settlement it has offered is actually more than the estimate. On that basis, unless any works have been left out, I'm satisfied that it's a reasonable cash settlement offer.

Our adjudicator recommended that Legal & General should pay Mr T 8% simple interest on this cash settlement from the date of loss to the date of settlement. Legal & General thought interest should only be payable if it had caused delays or made an incorrect settlement offer which had led to Mr T paying for repairs and then not being reimbursed for them when he should have been.

I can see that there were two reasons why payment of the balance of the cash settlement was delayed. Firstly Mr T wasn't satisfied that the amount was correct. In my opinion that was Legal & General's fault because if it had provided him with the information he'd requested at an earlier stage, he might well have accepted the offer sooner. Secondly I can see that Legal & General needed to check a previous claim made by Mr T which it had just become aware of. Although not all the delay was caused by Legal & General, some of it was. So I think it would be fair and reasonable for Legal & General to pay interest on the cash settlement at 8% from the date of loss.

alternative accommodation for further 47 days

This service's usual approach is that alternative accommodation should normally be provided if the kitchen and/or bathroom can't be used as a (direct or indirect) result of the claim. Mr T's kitchen and bathroom hadn't been damaged by the water leak.

Legal & General's loss adjuster arranged for the furniture from the lounge and dining room to be put into storage. However it didn't take into storage the furniture from the hall since initially it didn't intend to remove the asbestos from the hall floor. It later changed its mind regarding that. In order to enable the work in the hall to be carried out Mr T says that he and the asbestos removal company moved the furniture from the hall into the kitchen. There

were a significant number of items, some of them large, including an upright piano, bookstand, mirrors and shelving units.

So because these items had to be moved somewhere, during this period the kitchen was being used as a storage area. Mr T has explained that there was nowhere else downstairs where he could store these items and his garage was full of other items. In any event he didn't want to store these high value items in his garage. Also it wasn't feasible to move them upstairs, where a number of other items were being stored. I accept this explanation.

Legal & General thought Mr T and his family could have carried on living in the property at this stage but agreed to pay a meals allowance of £40 per day. If the claim had been handled better, it's possible that some of the alternative accommodation costs could have been avoided. But they weren't and in my view it's too late for Legal & General to complain about that now.

I'm satisfied that Mr T's kitchen wasn't usable during this period. In addition there was no furniture downstairs other than what was being stored in the kitchen and there were bare concrete floors in the other rooms with trenches for pipes dug out of the floor. In my view it was justifiable for Mr T and his family to move into alternative accommodation. I think it's fair and reasonable (upon receipt of invoices substantiating this) for Legal & General to pay the cost of this and add 8% simple interest from the date of payment to the date of settlement.

meals allowance

The family was in alternative accommodation for 87 days. Mr T would like Legal & General to pay this allowance at a rate of £50 per day. Originally Mr T was offered £30 per day for meals during the first period of alternative accommodation. Our adjudicator didn't think that was enough for a family of two adults and two teenagers. We usually think this allowance should be £10 per day for an adult or teenager. Legal & General has since agreed that a rate of £40 per day would be appropriate and I think that it's fair and reasonable for this to be paid for the whole 87 day period.

additional costs

When a consumer has incurred additional costs such as telephone bills or other increased utility bills as a result of the claim, then I usually expect them to be reimbursed. In this case Legal & General has offered Mr T £50 to cover the cost of his telephone calls and letters. I haven't seen any evidence to show that isn't enough.

Our adjudicator noted that Mr T's house had to be dried out after the water leak. I'd expect that to lead to his utility bills being larger than usual for the period when the drying equipment was being used. I think Legal & General should pay any increase in these costs if Mr T can provide it with evidence regarding this together with 8% simple interest from the date of payment to the date of settlement.

compensation

I don't generally make awards to reflect the time someone's spent in dealing with their claim. So I don't think Legal & General treated Mr T unfairly by refusing to pay for his time. But Mr T suffered a great deal of inconvenience as a result of the way his claim was handled. He was referred from one company to another without much co-ordination. It took a month for the flooring to be tested for asbestos. He continually had to chase for the claim to be

progressed. He shouldn't have had to store furniture in the kitchen while the works were carried out. No agreement was reached in advance about the extent of the alternative accommodation which led to disputes about the amount. All in all, although the claim would have involved a considerable degree of inconvenience in any event, the way it was handled by Legal & General and its loss adjuster made it much worse. In the light of this I don't think the sum of £100 compensation offered by Legal & General is sufficient. I think it would be fair and reasonable for Legal & General to pay Mr T £350 compensation for the trouble and upset it has caused him."

responses to my provisional decision.

Mr T accepted my provisional decision but queried the position regarding VAT on the settlement amount.

Legal & General commented that:

- it shouldn't be 'penalised' by having to pay interest on the cash settlement since not all the delay was caused by Legal & General and in my provisional decision I'd said that unless any works had been left out, I was satisfied that it's a reasonable cash settlement offer;
- the kitchen may have been usable during the period in question and if it wasn't, Mr T should have told them;
- it has already accepted that the meals allowance should be £40 per day for 87 days;
- it partly agreed regarding the additional costs but didn't think it should have to pay interest on them as it had never been presented with such costs and therefore wouldn't have been in a position to settle them; and
- it agreed to increase the compensation to £350.

my findings

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

Regarding the VAT, Legal & General has agreed to pay this upon receipt of copies of invoices from Mr T's contractors on completion of works, showing their VAT registration details and the VAT amount. If for any reason Mr T is dissatisfied with Legal & General's handling of this, he will be entitled to bring a separate complaint to this service once Legal & General's complaints procedure has been exhausted.

In making an award of interest, it's not my intention to penalise Legal & General. In this case it feels fair to award interest because Mr T lost the opportunity to have the cash settlement earlier due to Legal and General not providing him with a schedule of works so that he could check that it included all the claim related repairs. Although some of the delay was caused by the need to check a previous claim and that wasn't Legal & General's fault, I think most of the delay was down to it.

If Mr T and his family had been living at home when the kitchen was first used as a storage area, I agree that it would have been reasonable to expect Mr T to contact Legal & General about that. As it was, none of the other downstairs rooms could be lived in due to the ongoing works. With the kitchen effectively out of action as well I don't think it was unreasonable for him to expect to be able to stay on in alternative accommodation at Legal & General's expense. I also think that Legal & General could have kept more closely in touch with Mr T during this period.

I agree that Legal & General shouldn't have to pay interest on the additional costs since it hasn't been presented with them.

To summarise, other than in respect of interest on the additional costs the responses I received to my provisional decision don't persuade me to revise my conclusions.

my final decision

I uphold this complaint in part and require Legal & General Insurance Limited to pay Mr T:

- interest on the cash settlement calculated from the date of loss to the date of settlement;
- Mr T's alternative accommodation costs for the additional 47 days provided the costs are substantiated together with interest from the date of payment to the date of settlement;
- a meals allowance at the rate of £40 a day for 87 days less any such allowance already paid;
- any additional utility bills (above what Mr T would normally had to pay) for the period while the drying equipment was being used provided this can be substantiated by Mr T; and
- compensation of £350.

Whenever I refer to interest, I mean simple interest at the rate of 8% per annum less any taxes where properly deductible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 14 December 2015.

Elizabeth Grant
ombudsman