

The complaint

Mr and Mrs W complain that Fairmead Insurance Limited unfairly declined a claim under their legal expenses insurance policy.

Where I refer to Fairmead, this includes the actions of its agents and claims handlers for which it takes responsibility.

What happened

In early 2022, Mr and Mrs W obtained a quote from a building company – who I'll refer to as 'A' – for a garage conversion. They accepted the quote and agreed to pay £6,600 upfront for building materials.

When these materials weren't provided, Mr and Mrs W contacted their bank to intervene. This prompted A to provide some materials at the value of around £500 and start work. But once their bank considered the matter as resolved, A stopped work and no further materials were supplied.

Mr and Mrs W sent A a letter before claim. And they subsequently contacted Fairmead for assistance under their legal expenses insurance policy to pursue A in court.

Fairmead declined the claim, relying on a policy exclusion for any contract disputes relating to building works to the home. But Mr and Mrs W didn't think this was fair. They say the money they've lost is what they paid for materials only, so this arises from a contract entered into for the sale of goods – which the policy covers. They also say the garage is a free-standing separate building and therefore not part of the home.

Mr and Mrs W raised a complaint about the decision to decline their claim. They were also unhappy that when they asked Fairmead to provide a copy of the policy terms, they were told it didn't have it. They question how their claim was assessed without this.

Fairmead didn't uphold the complaint. It said the contract was entered into for a garage conversion, and the materials formed part of that contract – not a separate one for buying goods. It also explained that it didn't hold a full copy of Mr and Mrs W's home insurance policy, only the legal expenses section and that this was sent to them.

Fairmead did acknowledge some delays in processing Mr and Mrs W's claim, and it offered £75 compensation for any distress and inconvenience caused as a result.

Mr and Mrs W remained dissatisfied, so they brought their complaint to our service. But our Investigator was satisfied that Fairmead had declined the claim in line with the policy terms and hadn't acted unfairly. As Mr and Mrs W didn't agree, the complaint has been passed to me for a final 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.

The terms and conditions of Mr and Mrs W's legal expenses insurance policy say it will cover contract disputes defined as *"your costs and expenses...to pursue a legal action directly arising from you buying or hiring goods or services for your own private use"*.

The contract disputes section of cover lists the type of claims that would not be covered, one of which is *"anything to do with building, rebuilding, converting or extending all or part of your home"*.

Mr and Mrs W's letter before claim to A sets out the series of events. It says that planning permission for the garage conversion was obtained in March 2022 and shortly after, A provided two verbal quotes described as *"one for the outside work only, the cost being circa £8,500 for which [A] required an upfront payment of £6,600 for materials, and the 2nd including the inside work, for which [A] quoted circa £25,000"*.

The letter goes on to explain that Mr and Mrs W asked A to complete the outside work only and £6,600 was transferred in April. A had said they'd start work later that month and they'd *"be in touch the week before to arrange delivery of a skip and materials"*.

From the information available, I'm persuaded the contract Mr and Mrs W entered into with A was for the outside work of a garage conversion. I can't agree the upfront payment was a separate contract for goods only, but rather a down payment towards the overall cost of the construction works. This is further supported by the inclusion of a skip, and that when A did subsequently return following the bank's intervention, they started works and left their tools on site. This isn't consistent with a contract solely for providing materials.

In any event, even if I were persuaded that the contract with A was to provide materials only, I'm not persuaded this alters the outcome of the claim. I say this because the materials were for a garage conversion and the policy terms exclude *"anything to do with"* building and converting works.

Mr and Mrs W argue that the garage doesn't form part of their home and therefore it's not caught by the exclusion. So I've looked at how the policy defines *"home"*, which is described as *"the private dwelling, garage and domestic outbuildings at...the address stated on your policy schedule"*.

Overall, I'm satisfied that Fairmead's decision to decline the claim was in accordance with the policy terms and not unfair. So it follows that I don't uphold this complaint.

I understand Mr and Mrs W are also unhappy that Fairmead said it couldn't provide a copy of the policy terms. However, I'm satisfied with the explanation provided that it was referring to the full copy of the home insurance document. Fairmead's legal expenses claims are dealt with by a claims handler who wouldn't have access to the full details of Mr and Mrs W's policy and would only have the legal expenses section, which was provided to them. As such, I can't see that they've offered any loss or detriment here.

Fairmead has offered £75 for delays in its claims handling. If this hasn't been paid and Mr and Mrs W wish to accept it, they should contact Fairmead directly to arrange payment.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W

to accept or reject my decision before 12 January 2024.

Sheryl Sibley
Ombudsman