

## **The complaint**

Miss G has complained about Fairmead Insurance Limited's failure to settle her claim under her Home Insurance policy for damage to a property she owns and rents out.

This complaint only covers events up to the final response letter issued by Fairmead on 27 July 2022.

Any reference to Fairmead in this decision also includes its underwriting agent.

## **What happened**

Miss G made a claim for damage caused to the bathroom in her property by a leaking pipe in March 2022. She'd had the leak repaired and was asked by Fairmead's loss adjuster to provide an estimate for the repairs needed to the bathroom. Miss G provided an estimate for the repairs in early May 2022 in which the contractor referred to taking up the rotting floor. Miss G has said that she didn't receive a response from the loss adjuster, but the situation reached crisis point when so much water was leaking through the ceiling that the tenants were concerned the bath would go through it. Miss G felt she needed to have the repairs carried out. So she contacted the loss adjuster and says she was told to make the decision regarding commencement of the works with the intention of preventing further loss.

So, Miss G instructed her contractor to complete the works. Soon after this she was told by the loss adjuster that the floor might not be covered as it had been damaged by rot. She thought this was only due to the word 'rotting' being used in the estimate she'd provided, which Miss G says the contractor used to describe water damage to it in generic terms. The repairs also led to damage to the bath when it was removed and the tiles on the wall.

Miss G then discussed the matter with the loss adjuster and this resulted in him sending an email asking her to provide further evidence. He also quoted a policy exclusion, which referred to rot and anything that happens gradually not being covered. Miss G made a formal complaint and received a final response letter from Fairmead on 28 July 2022. In this it said that as the information requested in the email by the loss adjuster had not been provided, the matter had been referred to it and it had decided to refer the matter to a specialist team who would contact Miss G to discuss the matter further.

Miss G paid for the work needed to repair the bathroom and asked us to consider her complaint. One of our investigators did this. She didn't uphold it. This was because she thought Fairmead was entitled to validate the claim before paying for the damage, as opposed to paying the claim in full.

Miss G does not agree with the investigator's view and has asked for an ombudsman's decision. She has made the following comments:

- As far as she is concerned liability had been accepted before she authorised the works, as she had been given verbal approval to go ahead.
- Fairmead should have sent a loss adjuster to inspect the floor before it was taken up and

it had two months to do this. And the burden of proof is on it to show that the damage to it was caused by rot and is therefore excluded. Instead, it just relied on the use of the word 'rotting' by the firm who provided the first repair estimate she provided. It is the loss adjuster's and Fairmead's fault that there is no expert report opinion to prove the damage to the floor was caused by rot.

- Wet rot cannot occur in chipboard, which is what the bathroom floor was made of. The fact the floor was spongy after the leak is consistent with it disintegrating as a result of the water from the leaking pipe. This can happen very quickly.
- All the way through the claim she has supplied what she could by way of quotes, photographs and other additional information. But every time she did, something else was requested. So the 'goal posts' were constantly being moved.
- She has been asked for evidence of how the tiles on the bathroom wall had been installed after they had been removed and disposed of. But this is irrelevant as their failure was caused by the walls being waterlogged due to water being absorbed from below.
- Our investigator claimed that two builders had said the floor was rotten, which is wrong as one reference to rot was from a plumber who has no knowledge of rot and was not qualified to identify it. And one was from a cleaning and maintenance company who were not used by her to carry out the repairs.
- There is an implication in the investigator's opinion that a 'long standing issue' exclusion cause can be used to reject her claim and be used to reject any and all claims that involve a water leak that is not immediately discovered, simply on the basis of vague and unsubstantiated speculation as to how long the leak had been present.
- The water leak was repaired on 3 February 2022, but this repair failed at some point thereafter. The claim for the repair was submitted on 29 March 2022 and was still being processed when it was noted the repair had failed and water was again leaking through the ceiling on 24 May 2022. The responsibility for further damage occurring is due to the delay on the part of the loss adjuster and Fairmead in dealing with the claim.
- The fact her calls and emails were ignored has not been recognised by our investigator.

### **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.

Having done so, I agree with our investigator that Fairmead's decision not to pay Miss G's claim as of 28 July 2022 was reasonable. I've explained why below and addressed the points Miss G has raised in response to our investigator's view.

Miss G's policy covers escape of water from a pipe. But it has a general exclusion for 'anything that happens gradually'. And I can see from what Fairmead has said the loss adjuster thought this exclusion could apply to defeat Miss G's claim. They were not purely concerned with the fact the damage to the floor may have been due to rot. But the loss adjuster wanted to investigate some issues further with the contractor before making their final decision. They did this after they'd received the invoices for the works from Miss G. The loss adjuster then spoke with Miss G and emailed her asking for further evidence. They also quoted the abovementioned exclusion, which covered rot and anything that happened gradually. I think, bearing in mind the extent of the damage and the quotes provided, this

approach was reasonable. I appreciate Miss G did chase the loss adjuster on a few occasions, but I think overall the timeliness of communication by the loss adjuster was reasonable.

I do not agree that Fairmead has ever accepted liability for Miss G's claim. The loss adjuster did agree on the pricing in one estimate excluding the flooring. But they never said Fairmead would settle the claim. I appreciate why Miss G gave authority for the repairs to go ahead. But – even if they were not covered by her policy – she would have needed to have them carried out.

Fairmead did not receive estimates for the repairs from Miss G until May 2022. And there was no reason for it to send out a loss adjuster to view the damage prior to this, as the loss adjuster needed the estimates before deciding next steps. Once it had the estimates the loss adjuster was considering the claim, but the works had to be carried out due to the danger of the floor collapsing. By this time it was too late for the loss adjuster to come out and view the damage; so they had to rely on photographs and the estimates provided.

It may well be that wet rot cannot occur in chipboard. But this does not alter the fact that it does seem the damage to the floor could have occurred gradually over a long period of time and the loss adjuster was entitled to investigate this.

I do not agree the loss adjuster changed their mind and kept moving the goal posts. I think they were simply trying to establish whether the damage claimed for was covered by Miss G's policy and needed evidence to do this.

I think it was reasonable for the loss adjuster to ask for evidence of the damage to the tiles and to explore why this occurred. I do not believe they were in a position to simply accept the walls were damaged by water rising up from the floor, based on the evidence Miss G had provided.

I appreciate our investigator referred to 'builders' quotes' in her view. She obviously knew the quotes she was referring to weren't from actual builders, but was using the term builder generally.

I agree that just because water damage has occurred over a long period, it is not necessarily fair for an insurer to rely on an exclusion for damage that happens gradually. But it is reasonable for an insurer to investigate whether this could have happened and why it wasn't noticed earlier if it seems to be a possibility that it had been occurring over a long period of time. And I consider this was a possibility that it was reasonable for the loss adjuster to investigate.

I do not agree the further damage that was caused by the leak reoccurring is the loss adjuster's responsibility. They were still considering the original claim at this point, which I think was reasonable.

In summary, for the reasons set out above, I'm satisfied that as of 28 July 2022 Fairmead was not obliged to pay Miss G's claim and its approach in investigating it to this point was reasonable. This means I do not consider it is appropriate to uphold Miss G's complaint.

### **My final decision**

For the reasons set out above, I have decided not to uphold Miss G's complaint about Fairmead Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept

or reject my decision before 1 February 2024.

Robert Short  
**Ombudsman**