

The complaint

Ms L complains about HDI Global Speciality SE declining her escape of water claim under her buildings insurance policy.

HDI are the underwriters (insurers) of this policy. Much of this complaint concerns the actions of their appointed agents. As HDI accept they are accountable for the actions of their appointed agents, in my decision, any reference to HDI should be interpreted as also covering the actions of those agents.

What happened

The background to this complaint is well known to both Ms L and HDI and has taken place over a number of years. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Ms L had a home insurance (buildings) policy with HDI. In 2019 she made claims for escape of water and subsidence. These claims were declined. Ms L complained about the decline of the escape of water claim and later referred it to our Service for an independent review.

Our Investigator considered the evidence and recommended that the complaint be upheld. She recommended that the claim be re-investigated following the emergence of new evidence and HDI pay Ms L £600 for any trouble and upset caused by how they'd handled things.

HDI didn't accept the recommendations and the complaint was then referred to me for a decision. I sent both parties a copy of my provisional findings recently. As the deadline for response has now passed, I've considered the complaint 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.

A vast amount of evidence has been provided in this complaint and although a number of issues have been raised, this decision only addresses those issues I consider to be materially relevant to this complaint. This isn't meant as a discourtesy to either party – it simply reflects the informal nature of our Service.

I need to be really clear to both parties about what the scope of my decision is. Ms L had another complaint set up with our Service regarding a declined subsidence claim she'd

made. My decision will only address the declined escape of water claim.

Both parties responded to my provisional decision before the deadline set. Ms L argued (broadly) that she ought to be due more compensation given how long these events had been going on for and the impact.

I've considered this alongside what HDI have said about my decision being largely based on

the new evidence (water bills) and no evidence of a leak was found back in 2019. I've given fair consideration to both parties positions here.

On one hand, Ms L had two pieces of material information - that weren't provided until after the 2019 inspection (the builder's visit and the water bills). Had these been provided sooner to HDI there's a distinct possibility these matters could have been brought to a resolution much sooner. But that said, she has still suffered impact because of how HDI handled this claim and they were the experts in this business relationship. Neither party may be in complete agreement with me - but I find £600 to be fair reasonable and proportionate here.

My previous findings

It's important to state here that our Service have been provided with two conflicting opinions in this complaint. Reports on behalf of the business concluded that there was no evidence of an escape of water following an inspection in June 2019. Of note is:

"There is no evidence that there is a leak or has been an escape of water....."

And:

"In the absence of any known internal leaks [bold added for emphasis by Ombudsman], we cannot see how this could be due to an escape of water.

***There is a remote possibility that it could be due to a pipe leaking under the floor** [bold added for emphasis by Ombudsman]....we would have also expected the water tests to reveal leakage taking place which it did not".*

This is important as although HDI's investigations didn't conclude that there was a leak, they left the door of possibility open that there may be a leak that hadn't, at that point, been identified.

On the other hand, a statement/opinion has been provided (with supporting photographs) by Ms L from a third party builder from 8 November 2019 stating:

*"Upon arrival I noted that there was several areas in the rear extension that had issues with what appeared to be damp rising from the solid floor. After some initial investigation and eliminating the shower/toilet/basin I found that an area of floor seemed to be damper than most areas. With permission I was able to remove an area of ceramic tiles and sand and cement screed **to expose a leaking 15mm water pipe in the centre of the extension. I was able to cut the leaking pipe and cap the pipe to prevent any further damage.** [bold added for emphasis by Ombudsman] Unable to reconnect the damaged pipe the bathroom was left inoperable."*

HDI have (respectfully) cast doubt on the new evidence provided by Ms L. In particular, they've questioned why this was not shared much sooner than it was to challenge the earlier referenced report HDI had completed and pointed to. Whilst I agree it is most unusual, aside from the obvious questions it raises about why Ms L didn't provide HDI or our Service with this information much sooner - I've not seen any other evidence that sufficiently undermines the authenticity of the statement.

On balance, I'm satisfied that Ms L has provided supporting evidence that an escape of water *did* take place. I say this because Ms L has provided our Service with relevant supporting information – water bills, which record usage during the period in question. For ease, I've included a summary table below but will ask our Investigator to share this

evidence with HDI.

<i>Period start</i>	<i>Period end</i>	<i>Usage</i>
August 2017	5 March 2018	18m3
5 March 2018	22 August 2018	19m3
22 August 2018	18 Feb 2019	15m3
18 Feb 2019	19 August 2019	63m3*
19 August 2019	21 February 2020	40m3
21 February 2020	19 August 2020	16m3
19 August 2020	16 February 2021	19m3

*Figure is based on the bill that followed which showed the previous usage.

I'd draw attention to the period 18 February 2019 until February 2020. I've added bold for ease. This shows a massive jump in recorded water usage around the time the escape of water claim was made and a significant decrease during the period when Ms L had the pipe capped in November 2019. I've considered if there are likely any other reasons why the usage should spike - gardening use for example. But when I compare the 2018 and 2020 summer usage, they aren't comparable.

I have considered another scenario is the damage being claimed for not being caused by the pipe that was capped. But given the proximity of the damage to where the pipe was capped, this would mean the much higher than usual water usage being explained by some other means and it (a leak) then stopped by itself. And this seems less likely.

I note that Ms L has provided photos of the area closest to the water supply pipe that was capped in the months leading up to November 2019 and afterwards. I stress that this was a supply pipe and not a waste pipe. In my opinion, based on experience, these photos show worsening and significant damage to the walls that wouldn't be inconsistent with a leak as reported by Ms L. Importantly, the photos from after the pipe was capped support that drying out had begun to occur.

The service provided

HDI offered £200 compensation for the service issues. I find this doesn't go far enough to recognise the impact of their actions on Ms L, and instead I find the total of £600 recommended by our Investigator to be fair, reasonable and proportionate. This recognises that there were avoidable issues with HDI's handling of this complaint and it is with the range of our published external guidelines on this type of compensation. <https://www.financial-ombudsman.org.uk/consumers/expect/compensation-for-distress-or-inconvenience>

Summary

It's clear that HDI did some investigations into the escape of water:

"[third party name redacted by Ombudsman] who were appointed to assist with investigations carried out a water mains sound test which confirmed that there were no water supply leaks."

But in my opinion, their investigations are undermined by the water bills showing much higher water usage than normal during the relevant time period. When taken alongside HDI's comments (quoted earlier in the decision), that left open the possibility that there may have been an *undetected leak*. Having carefully considered the evidence in this complaint, I find that HDI have unfairly declined the claim made for an escape of water.

Both parties will be aware that the separate subsidence claim has, over time, become intertwined with the escape of water claim. To avoid disappointment for Ms L, I need to be totally clear that my direction does not at all interfere with the declined subsidence claim and should not be interpreted as a 'work around' that would enable her to be indemnified for the damage solely caused by subsidence.

Given these events occurred some time ago, a property visit may or may not be beneficial. That is for HDI to decide. But in any case, the photos provided by Ms L should be a useful starting point - as they were contemporaneous.

My findings here are that HDI have unfairly declined the escape of water claim and my direction is that they now need to reconsider it. Should this be a claim that progresses to settlement, they need to settle the claim subject to the remaining policy terms and limits.

Without prejudicing any potential claim outcome or settlement, I'd encourage HDI to communicate with Ms L about any mutually acceptable settlement - given there would appear to be little merit in Ms L resolving the damp issues and the other damage caused by the escape of water - if that part of her property is likely to suffer further subsidence related damage in the years to come.

Putting things right

HDI Global Speciality SE need to:

- Pay Ms L a total of £600 compensation to recognise the impact of their actions in terms of how they've handled this claim.
- Reconsider the escape of water claim based on the new evidence provided.

My final decision

My final decision is that I uphold this complaint and HDI Global Speciality SE now need to follow my direction as set out under the heading 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 8 January 2024.

Daniel O'Shea
Ombudsman