

The complaint

Mr S and Mrs S complain about how Liverpool Victoria Insurance Company Limited (LV) handled a claim under their home insurance policy for damage to their property from a fire to the vehicle of a third party.

References to LV include their agents who handle claims.

This decision covers the issues raised in Mr S and Mrs S's complaint to LV and LV's final response issued in October 2022.

What happened

In June 2022 a third party visited Mr S and Mrs S, parking their vehicle on the driveway next to the property. Shortly after, the vehicle caught fire and caused damage to the driveway and the property (windows, guttering and fascia boards, garage door and electrics). The fire and rescue service put out the fire and checked the property to ensure no risk of a further fire.

Mr S and Mrs S contacted LV to report the fire and the damage, and to provide details of the vehicle insurer. LV appointed a contractor (H) to assess the damage and carry out repairs. The repairs started, but Mr S and Mrs S weren't happy at the pace of the work and chased LV several times. They said they were contacted by H in August 2022 and told the whole driveway would be replaced and the work would begin in four to five weeks. However, a few days later, they were contacted again by H and told LV wouldn't replace the whole driveway (which was block paved), only the part of it damaged by the fire. The rest of the driveway would be cleaned so it more closely matched the replaced section.

Unhappy at the delays in repairs being completed, and that LV wouldn't replace the whole driveway, Mr S and Mrs S complained. They were also concerned their premium would increase at the subsequent renewal of the policy (February 2023).

In their final response issued in October 2022, LV confirmed they'd replace the damaged section of the driveway and clean the remainder to blend in the old and new paving. They said this was in accordance with the terms and conditions of the policy. On the potential increase in premium, LV noted they'd previously told Mr S and Mrs S that as they were making a claim under their policy, their premium could be impacted. But they would be looking to recover the costs of settling the claim from the third party's vehicle insurers and – if successful in fully recovering the costs – the excess under the policy would be reimbursed to Mr S and Mrs S. As the policy renewal date was February 2023, LV couldn't say whether the premium would be affected until the renewal documents were issued – but said they would be happy to discuss the matter nearer the time.

Mr S and Mrs S then complained to this service (February 2023). They'd been affected financially by having to pay the excess due under the policy and when they received their renewal notice their premium had increased because they'd made a claim. LV couldn't say whether the premium would be reduced once the claim had been completed. They'd found the fire very stressful as well as what had happened subsequently, through having to chase H and LV to get the repair work completed. They were also unhappy that a full structural survey of their property hadn't been carried out, to determine whether there had been any

other heat damage to their property. They wanted all the repairs to be completed and the whole driveway replaced (not just the affected part).

Our investigator upheld the complaint in part. They thought LV's decision to replace only the damaged section and clean the remaining section was fair and reasonable. To replace the whole driveway would constitute betterment (putting Mr S and Mrs S in a better position than that prior to the incident). A structural survey of the property wasn't carried out following the fire as the damage was held to be cosmetic to the exterior of the property, and there wasn't any evidence to show the structure of the property had been impacted. On the issue of increased premiums, this was common where a claim had been made (even if full recovery of costs was subsequently achieved). But they thought the service received by Mr S and Mrs S could have been better, so they should receive £100 compensation.

Mr S and Mrs S disagreed with the investigator's conclusions and asked that an ombudsman review the complaint. They said it was LV's responsibility to arrange a structural survey of their property (not theirs). The assessment by H only involved a visual inspection and photographs, which wouldn't have detected any internal damage to the structure of the property. They'd been advised by the fire and rescue service that a full inspection of the property should be carried out to check the integrity of the structure. Mr S and Mrs S considered this advice indicated the structure had been affected.

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.

My role here is to decide whether LV have acted fairly towards Mr S and Mrs S.

There are several issues in Mr S and Mrs S's complaint, which I'll consider in turn. First, whether LV acted fairly in saying they'd only replace the damaged section of driveway and clean the remaining section to reduce the difference in appearance between the new and old sections. Second, whether LV should carry out a full structural survey of the property to establish whether the fire caused any internal (structural) damage. Third, the time taken to assess and carry out repair work and the communication between LV and Mr S and Mrs S. Finally, the issue of future premiums and the impact of Mr S and Mrs S making a claim.

On the first issue, Mr S and Mrs S say they were told (by H) that the whole driveway would be replaced. But then LV said they'd only replace the damaged section. Mr S and Mrs S say the whole driveway should be replaced – but LV say the terms of the policy only require replacement of the damaged section, and their offer to clean the remaining section to reduce the difference in appearance between the new and old sections is reasonable.

In considering this issue, I've first looked at what the policy says about how damage will be treated. The policy states that where there is loss or damage to property (which would include the driveway) the policy will replace what has been lost or damaged. I think this makes it clear that the policy won't replace what hasn't been lost or damaged. In the circumstances of this case, it appears the fire only affected a section of the driveway – not the whole driveway. And H's view is that a 'patch repair' would be possible (by replacing the damaged blocks). Given the age of the driveway and the impact of natural weathering over time, replacement blocks would be of a different appearance to the existing (undamaged) blocks. Aesthetically this would mean a difference in appearance. LV have offered to clean the rest of the driveway to reduce the difference in appearance. I think that's reasonable.

I've also considered that to replace the whole driveway would involve a significant degree of 'betterment'. That is, Mr S and Mrs S would be put in a better position than before the fire

(they'd have a complete, new driveway). It's a generally established principle of insurance that a policyholder is put in the same position they were before an incident, damage or loss – not a better position.

Taking these points into account, I've concluded LV have acted fairly in offering to replace the section of driveway damaged in the fire and to clean the remaining part of the drive to reduce the difference in appearance between the old and new sections.

On the second issue, whether LV should have carried out (should carry out) a full structural survey of the property to establish whether the fire caused any internal structural damage, I've considered the views of Mr S and Mrs S and of LV, together with those of H (who inspected the property and assessed the damage) and those of the fire and rescue service. Mr S and Mrs S refer to the latter, who advise a full inspection of the property should be carried out to check the integrity of the structure. H's assessment doesn't indicate the need for this, as they've carried out a visual inspection of the damage and the repair work needed to reinstate the property.

I've considered both views carefully, but I'm not persuaded it would be fair or reasonable to require LV to carry out a full structural survey of the type advised by the fire and rescue service. H have inspected the property and concluded on the extent of the damage and work required to reinstate the property. While the fire and rescue service have provided advice, it doesn't mean they think there is structural damage (I've also not seen anything to indicate there has been structural damage). And as advice, it's a decision for LV as to whether they think a survey is required, based on H's inspection and assessment. It's not something I can require them to do.

On the third issue, the time taken to assess and carry out repair work and communication between LV and Mr S and Mrs S, I've looked at the sequence of events and what happened. It's clear Mr S and Mrs S have had to chase H and LV about progress with the claim and the repair work. I've also considered their being initially told (by H) the whole driveway would be replaced – only for LV to then say only the damaged section would be replaced. While I've concluded that decision is fair and reasonable, I think there would have been some loss of expectation by Mr S and Mrs S from being given contradictory information. Taking account of the circumstances of the case (to the point of LV's final response) I think £100 compensation for distress and inconvenience would be fair.

Finally, there's the issue of future premiums and the impact of Mr S and Mrs S making a claim. Mr S and Mrs S think it's unfair that they may have to pay a higher premium (and I understand that the subsequent renewal notice indicates this to be the case). LV say a claim being made would still need to be recorded (even if they are subsequently able to make a full recovery of the cost of settling the claim from the third party's vehicle insurers}. In that situation, they would refund the policy excess payable by Mr S and Mrs S. LV also say Mr S and Mrs S were made aware of the potential impact on their future premium when they made their claim.

Considering this issue, looking at the case notes from LV, they do indicate Mr S and Mrs S were told about the potential impact on their premium of making a claim, even if the costs of that claim were subsequently recovered by LV from the third party's insurers. I understand why Mr S and Mrs S feel it's unfair their premium could be (has been) affected by something for which they weren't responsible and was outside their control, but I can't require LV to disregard the impact of a claim being made under the policy. The nature of insurance is that where a claim is made – even if the costs may be recovered – it will be recorded and considered when insurers assess risk and consequently the level of premiums. So, I can't conclude LV have acted unfairly. And as with any other annual insurance policy, it's open to

Mr S and Mrs S to decide whether to accept the terms offered at policy renewal (including the premium to be paid).

My final decision

For the reasons set out above, it's my final decision to uphold Mr S and Mrs S's complaint in part. I require Liverpool Victoria Insurance Company Limited to:

- Pay Mr S and Mrs S £100 in compensation for distress and inconvenience.

Liverpool Victoria Insurance Company Limited must pay the compensation within 28 days of the date on which we tell them Mr S and Mrs S accept my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 1 August 2023.

Paul King
Ombudsman