

The complaint

Mr and Mrs G are unhappy with Admiral Insurance (Gibraltar) Limited's handling and settlement of a claim they made for repairs to a damaged underground pipe at their property.

What happened

Mr and Mrs G reported a below ground leak, from a pipe serving their home, to Admiral – their home insurance provider.

Mr and Mrs G explained they had already made arrangements to have the leak repaired by a local contractor because they'd needed to shut off the water supply to their home to stop the leak, and so would have no water for their family until the repair was completed.

Admiral agreed Mr and Mrs G could get the works completed and gave instruction as to what evidence they needed to capture during repairs so that the claim could be validated. But following the repairs, Admiral disputed the necessity and cost of the repairs which Mr and Mrs G had carried out. So, instead of reimbursing the full costs they'd incurred, £4,500 + VAT, it settled the claim for £1,296.23 + VAT (less the policy excess) – which is what it said its contractors could have carried out a suitable repair for.

Mr and Mrs G brought their complaint to our service where it was looked at by one of our investigators. He thought Mr and Mrs G's complaint should be upheld. He said Admiral hadn't persuaded him that the works Mr and Mrs G carried out were excessive or unnecessary. He also said Admiral hadn't shown that it warned Mr and Mrs G that it would limit any settlement to the costs of its supplier. So, he said it would be fair and reasonable for Admiral to pay the full costs incurred by Mr and Mrs G and to pay 8% simple interest on any unpaid amount.

Admiral didn't accept our investigator's findings. So, as no agreement has been reached, the complaint has been passed to me to decide.

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 the outcome reached by our investigator. I'll explain why.

The terms of Mr and Mrs G's policy do explain that Admiral can decide how to settle a claim, and that it can limit the amount of a cash settlement to the amount it would have cost for it to carry out a suitable repair through its chosen supplier. But as an ombudsman, I'm not bound by a strict application of the policy terms and conditions. Instead, my role is to consider what is fair and reasonable in all the circumstances of the complaint.

There is limited evidence available to show precisely what was discussed when Mr and Mrs G first raised their claim. But they've maintained they weren't told that by going ahead with their own repair, the most Admiral would pay would be its own suppliers' costs. Neither were they told the works their contractor said were required would be challenged.

Mr and Mrs G have been consistent in their testimony about the initial claim discussions throughout their complaint. And the contemporaneous notes and emails I've seen from Admiral don't appear to contradict their testimony either. So, on balance, I'm persuaded that Mr and Mrs G were not adequately advised about the potential implications of their decision to go ahead with their own repair.

I consider it would have been good industry practice for Admiral's adviser/claim handler to have made clear all the potential implications of Mr and Mrs G's intention to carry out their own repair, so they could have properly made an informed choice. Because I'm persuaded this didn't happen, I don't think it would be fair or reasonable, in the particular circumstances of this complaint, for Admiral to limit the cash settlement to its supplier's costs.

In addition to being limited to its supplier's costs, Admiral's cash settlement wasn't based on the full works Mr and Mrs G had carried out. Instead of replacing the full length of underground pipe between the leak and stop cock, Admiral said its supplier would have carried out a bypass, at a lower cost. This was based on a desktop review of the video, photos and invoice Mr and Mrs G supplied (as instructed) by its supplier. Here's what was said:

"The insured reported a leak to the water supply pipe. A 3rd party contractor (redacted) investigated and carried out repairs. Photos, a video clip and an invoice for £4,500.00 + VAT was provided. Having reviewed the supplied evidence, we confirm a leak to the pipe beneath the property. The 3rd party contractor replaced the whole supply from the external stop tap to the internal one (amount charged is high). The leak could have been resolved by part re-routing the supply. Using insurer rates, the costs for an investigation and bypass repair are £1,296.23 + VAT."

Mr and Mrs G provided their own comments to explain why a bypass wasn't carried out. They explained:

"As can be clearly seen from the video and photographic evidence we have provided, whilst it might have been possible to cut into the pipe above the leak, the position of the leak (100-200mm below the level of the solid concrete floor of the utility room at the point at which the pipe bent and continued underground to the main utility isolating valve at the top of the drive), would have required the pipe to have been extensively excavated to access a suitable point below the leak to repair the situation with an effective by-pass. It was not feasible to conduct a simple by-pass in this situation without a degree of significant excavation. Furthermore, the proximity of the mains electrical conduit (it entered the property directly adjacent to the leaking pipe) would have meant conducting any excavation and by-pass repair activity in very close proximity to a live electrical mains conduit at a point before the main supply meter and RCD breaker in the house. This would potentially have required the electricity board to isolate the house (and any others fed from the same source) from the main supply for the duration of the repair causing additional cost and inconvenience, because as I'm sure you are aware, in accordance with HSE advice and guidance (HSG47) if possible any work should be conducted after eliminating the risk/designing out the risk as far as reasonably practicable"

The above are essentially all of the technical representations/explanations as to the works which were completed, or allegedly could have been completed. In situations like this, where the evidence is incomplete or contradictory, I'll make my decision on the balance of probabilities. That is, what do I consider to be more likely, in light of the evidence and arguments which are available.

Having carefully considered everything, I find that the weight of evidence in this case supports Mr and Mrs G's position, rather than Admiral's. Admiral is the one seeking to reduce the settlement, so the onus is on Admiral to show that this is fair. And I don't believe it has done so.

I say this because Admiral's report lacks any sufficient detail as to how a bypass could have been completed given the positioning of the pipe, how it could have been completed for the amount it has suggested, or how it could have been completed safely given the close proximity of the electrics – which doesn't seem to be in dispute. I'm also mindful that its supplier never carried out a site inspection, but rather based its findings solely on a desktop assessment after the fact.

I appreciate the explanations regarding the need to replace all the pipework (rather than bypass) have come from Mr and Mrs G themselves, rather than their contractor – and so can't be considered an independent expert opinion (although as I understand it, their expertise is in electrical health and safety). But despite their opinion not being independent, I still find their explanations to be more persuasive than Admiral's suppliers', particularly when considered against the photos, video, and invoice.

Ultimately, for me to be persuaded by Admiral's position, I'd need to be satisfied that Mr and Mrs G had acted unreasonably by carrying out the repairs they did, and that the amount Admiral has paid so far in settlement of the claim would actually have been sufficient to carry out an alternative, successful repair safely. But Admiral hasn't persuaded me of either. So, in the particular circumstances of this complaint, I think Admiral should cover the full costs Mr and Mrs G incurred in repairing the issue – less the policy excess.

This means Admiral must pay Mr and Mrs G the difference between the amount already paid and the cost of their invoice. Admiral should also add 8% simple interest to the amount outstanding, from the date Mr and Mrs G were out of pocket, to the date they are reimbursed. This is to compensate them for being deprived of the use of that money for other purposes.

My final decision

For the reasons I've explained above, I uphold Mr and Mrs G's complaint.

Admiral Insurance (Gibraltar) Limited must:

- Pay the difference between the settlement already made and the full amount incurred by Mr and Mrs G.
- To that amount, add 8% simple interest* from the date they were out of pocket to the date they are reimbursed.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G and Mr G to accept or reject my decision before 15 January 2024.

** If Admiral Insurance (Gibraltar) Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs G how much it's taken off. It should also give Mr and Mrs G a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.*

Adam Golding
Ombudsman