

The complaint

Mr P complains about his insurer, Fairmead Insurance Limited (Fairmead). His complaint is about Fairmead's decision to resurface only the part of his drive dug up to investigate and fix a leak (not to resurface the whole drive).

Fairmead use agents to administer the policy. Reference to Fairmead includes these agents.

What happened

In May 2021 Mr P noticed a damp patch coming up through the tarmac of the front drive at his property. Mr P contacted a builder he knew, who dug up the affected piece of tarmac and diagnosed a leaking water pipe. Mr P contacted Fairmead to make a claim under his home insurance policy. Fairmead accepted the claim and agreed to pay Mr P a cash settlement of £944 (£1,034 cost of repair less £100 policy excess) towards the cost of repair to the water pipe. Mr P accepted the offer.

Fairmead also offered to resurface the part of the drive that had been dug up. However, Mr P wasn't happy with this offer because it would have meant the resurfaced area wouldn't match the remainder of the drive. Instead, Mr P paid £2,000 for the whole drive to be resurfaced and asked Fairmead to cover the cost. Fairmead refused to do so, restating their offer to pay only for resurfacing of the area dug up.

Unhappy at Fairmead's position, Mr P complained. They didn't uphold the complaint. In their final response they referred to policy terms and conditions that stated in the event of loss or damage to parts of buildings which form part of a common design, they would only pay for the replacement or repair of the lost or damaged item only. Applying this to Mr P's drive, Fairmead concluded their decision to only offer to pay for resurfacing of the dug-up part of the drive was correct.

Mr P then complained to this service. The main issue was that Fairmead should have covered the resurfacing of the whole drive, as this would have returned him to the position he was in before the incident.

Our investigator upheld the complaint in part, concluding Fairmead had acted fairly in applying the policy terms and conditions to decide they would only cover the cost of resurfacing the dug-up part of the drive. While Mr P had paid for the whole drive to be resurfaced, the investigator thought Fairmead should pay him the estimated cost of resurfacing the dug-up part of the drive.

Both Mr P and Fairmead disagreed with the investigator's conclusions and requested an ombudsman review the complaint. Mr P maintained that Fairmead should pay for the cost of the whole drive to be resurfaced. Fairmead said their cash settlement included an element for resurfacing of the dug-up part of the drive.

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 Fairmead has acted fairly towards Mr P.

The key issue in Mr P's complaint is that Fairmead should have covered the cost of resurfacing the whole drive, not just the part that was dug up. He argues only covering the dug up part would mean it wouldn't match the remainder of the drive and as such, it wouldn't have returned him to the position he was before the leak (that is, having a drive of a single, consistent appearance). For their part, Fairmead say the policy terms and conditions mean they only have to cover the cost of the damaged area of the drive (the part that was dug up).

I've considered both views carefully, together with the information and evidence provided by both Mr P and Fairmead. On balance, I'm persuaded by Fairmead's view. I know this will be disappointing to Mr P, so I'll set out why I've come to this conclusion.

The key point made by Fairmead in support of their position is the policy terms and conditions. Specifically, under *Section 1:Buildings* there's a question *What happens to matching pairs, sets, suites and flooring?* which goes on to state:

"In the event of damage to parts of buildings which form part of a set of common design we will pay for the replacement or repairs of the lost or damaged item only, unless part of a pair."

While this doesn't specifically refer to the approach where part of a drive is dug up, I think the intent of the policy is clear – to only cover the repair to the damaged part of the drive. It wouldn't cover the resurfacing of the whole drive. So, I'm persuaded by Fairmead's view.

I've considered what Mr P has said about not being put back in the position he was in before the leak and part of his drive was dug up. But I don't agree. If Fairmead paid for resurfacing the whole drive, it would be putting Mr P in a better position than before the incident (a concept known as 'betterment'). That's because he would have a whole new drive, rather than one I understand was fifteen years old. And resurfacing the part of the drive dug up would still mean Mr P had a complete drive, which is what he had before. I can understand his wanting a drive that (for aesthetic purposes) would be of a consistent appearance – but that's not what Fairmead are obliged to do under the terms of the policy.

While I've concluded Fairmead acted fairly in not agreeing to cover the cost of resurfacing the whole drive, I've considered their response to our investigator's view that their cash settlement offer included an element for resurfacing the dug-up part of the drive. Therefore, they consider they don't have any further payments to make in respect of Mr P's claim.

As Fairmead haven't responded to our request for a breakdown of their cash settlement offer (to support their view it included the resurfacing of the dug-up part of the drive) I've looked at the other evidence available, including Fairmead's case notes and their final response. The case notes state that the gross cash settlement figure of £1,043 is *"just for the repair"*. This doesn't explicitly mention resurfacing of the tarmac, so it could be taken to mean simply repair of the pipe that caused the leak. Other references in the case notes indicate that 'repair' is to the pipe (rather than its replacement, which was a possibility before a repair was decided on to fix the leak). Similarly, Fairmead's final response refers to a 'partial repair' of the leaking pipe and that they offered a patch repair of the dug-up tarmac.

In the absence of a detailed breakdown of Fairmead's cash settlement offer, then on the other evidence set out above, I've concluded Fairmead's offer doesn't clearly cover the resurfacing of the dug-up tarmac. Together with my conclusion that they acted fairly in offering to resurface only the dug-up part of the drive, I've concluded they should pay Mr P

the estimated cost of resurfacing the dug-up section of drive. This should be based on the rates they would have paid their own contractors to carry out the work.

My final decision

For the reasons set out above, it's my final decision to uphold Mr P's complaint in part. I require Fairmead Insurance Limited to:

- Pay Mr P the estimated cost of resurfacing the dug-up section of drive. This should be based on the rates they would have paid their own contractors to carry out the work.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 8 June 2022.

Paul King
Ombudsman