

The complaint

Mr B, through a company “6”, has complained about how Covea Insurance plc dealt with a claim under a commercial insurance policy.

For ease, I will only refer to Mr B.

What happened

Mr B had a flood at a property he owned. Covea carried out repairs. Shortly after this, Mr B contacted Covea because the walls had damp issues. Covea said the damp was the result of pre-existing issues.

Mr B complained. Covea reviewed its files, including a previous claim. It said that during the previous claim similar problems had arisen with a wall at the property. It had accepted a damp membrane should have been installed, so had then carried out the work to do this. However, its records didn't show what measures had been installed to reinstate the property. Having looked at the history and that there seemed to be no pre-existing damp-proofing in the area now affected, it appeared the damp-proofing wasn't effective in all areas. It said further investigations were required and agreed with Mr B's suggestion that an independent surveyor be appointed to suggest an appropriate remedy.

When Mr B complained to this service, our investigator upheld the complaint. She said Covea should deal with the damp issue. After some further discussion between our investigator and both parties, she said Covea should appoint an independent surveyor. Our investigator attempted to agree next steps with Covea, but Covea didn't respond. So, the complaint was referred to me.

I issued my provisional decision on 12 May 2022. In my provisional decision, I explained the reasons why I was planning to uphold the complaint. I said:

The main issue is whether the damp found should be covered as part of the claim. Both parties have previously indicated they think an independent surveyor should be appointed to resolve this. Having looked at what happened, I agree that is a sensible way forward, as I think this is the most appropriate way to identify the cause of the issues. However, no agreement seemed to be reached on how an independent surveyor should be appointed and as Covea stopped responding to our investigator, Covea didn't confirm whether it would now be willing to appoint a surveyor or how this would be done. So, this is what I've focussed on.

I currently intend to require Covea to identify three independent surveyors and provide their details to Mr B. Mr B should choose one of the surveyors. The surveyor will be jointly appointed by Covea and Mr B, but Covea will pay the cost of the surveyor. Both parties should provide the surveyor with evidence related to the damp found at the property. The surveyor can then inspect the damp and related damage and report on what Covea needs to deal with in order to bring the claim to a close, including providing a scope of works, if relevant. Both parties will be bound by the independent surveyor's findings.

I'm aware that Mr B has asked that any surveyor report is compliant with the civil procedure rules. However, as we're an informal alternative to the courts, I don't intend to require this.

I've also thought about compensation. Mr B wanted compensation, including because he said he had planned to sell the property. However, I don't think it's possible to say whether or when the property would have sold. Mr T also had tenants in the property who continued to pay rent. In the circumstances, I'm unable to say whether Covea should have dealt with the damp and damage. However, if the independent surveyor finds that Covea needs to deal with any of the damp or related damage, it should pay Mr B £150 compensation to acknowledge the distress and inconvenience caused to him by the works not being completed correctly.

I asked both parties to send me any more information or evidence they wanted me to look at by 9 June 2022.

Mr B replied and asked me to make specific reference to the damp proof membrane and that Covea should install this in order to make a lasting and effective repair. He also provided emails from 2014 that he said was Covea's surveyor about the previous claim and the damp proof membrane installed at that time.

Covea didn't reply.

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've decided to uphold the complaint and to say it should be resolved in the way I described in my provisional decision. As part of that, I've considered the response from Mr B. The evidence he has provided is the type of evidence he can provide to the independent surveyor to show the previous condition of the property and the measures previously installed by Covea. The independent surveyor needs to assess the damp and damage and, if relevant, decide what Covea needs to do to return the property to the condition it was in before the claim and to provide a lasting and effective repair.

Putting things right

Covea should provide Mr B with the details of three independent surveyors so he can choose one and a full assessment of the damage can be carried out. The independent surveyor should assess the damp and the damage and, if relevant, decide what Covea needs to do to return the property to the condition it was in before the claim and to provide a lasting and effective repair. Covea should pay the cost of the independent surveyor.

Covea should also pay £150 compensation if the independent surveyor finds that Covea needs to deal with the damp or related damage.

My final decision

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint. I require Covea Insurance plc to:

- Provide Mr B with the details of three independent surveyors so he can choose one and a full assessment of the damage can be carried out. Both parties will be bound by the independent surveyor's findings.
- Pay the cost of the surveyor.

- Pay £150 compensation if the independent surveyor finds that Covea needs to deal with the damp or related damage.

Under the rules of the Financial Ombudsman Service, I'm required to ask 6 to accept or reject my decision before 8 July 2022.

Louise O'Sullivan
Ombudsman