

The complaint

Mr and Mrs C have complained about the handling of a home emergency and buildings insurance claim under their home insurance policy with Liverpool Victoria Insurance Company Limited (“LV”).

What happened

On 22 November 2022, Mr and Mrs C returned from holiday to find water leaking through the downstairs bathroom ceiling. They contacted LV who sent a contractor that day. The contractor reported that the leak was coming from a failed expansion valve on a hot water cylinder in a bedroom above. He isolated the cylinder and drained the system to stop the leak and said an engineer would need to come back to replace the valve.

The next day, Mr and Mrs C contacted LV again to say that the contractor had left a radiator valve open which had flooded the downstairs bathroom and spread to the kitchen next to it. There was also another large leak from the expansion vessel which had split. They say the contractor had also left the filling loop open, which caused the system to keep filling and was running at high pressure which caused further damage.

The leaks continued and Mr and Mrs C say they had to empty buckets of water several times a day, until the leak stopped in December 2022. LV agreed to alternative accommodation and I understand Mr and Mrs C moved to a hotel for around a week, returning home to work during the day. Drying equipment was installed in February 2023, three months after the incident, and the repairs to the property completed in June 2023.

Mr and Mrs C are very unhappy with the handling of the matter. They say that the initial leak was a slow leak from the bottom of the expansion vessel but the later leaks were under pressure and flooded downstairs. As a result, they were without heating and hot water and there was substantial damage to their property. While this has now been put right, Mr and Mrs C are also very unhappy with the time the repairs took and the handling of the repairs.

They are also unhappy that LV dealt with the property damage as a home insurance claim, which will impact their future insurance arrangements, given that it caused the damage and they do not therefore think it was an insured event.

LV accepts that its contractor had made a mistake which led to a further leak but does not accept it is responsible for all the subsequent leaks and damage. LV says a leak from the radiator was unconnected to the initial leak and that the main water damage was due to the initial leak, which meant a claim for escape of water under the buildings section of the policy was warranted. LV said there was a fault on a filling loop, which meant that the system refilled after the first contractor had drained it down, causing further water to leak. LV says its second engineer reported that the boiler needed a new expansion vessel, as it had split, and a new filling loop. LV also said that the cylinder had cracked and needed replacing but this not covered under the home emergency policy but considered as a gesture of goodwill.

Mr and Mrs C remained unhappy and brought their complaint to this service. They have made a number of points in support of their complaint. I have considered everything they have said but have summarised the main points below:

- LV came to repair a minor leak, which should have been a quick repair, followed by natural drying out of the effected areas and minor decorative work that they would have done themselves. The cost of the repairs as a result of the first leak would have cost less than the home insurance excess so would not have necessitated a home insurance claim. Instead LV caused significant damage to their home.
- This is not simply about slow claims-handling but the fact LV caused the damage and none of this would have been necessary if its agents had not been negligent. None of the compensation offered so far addresses this.
- LV's engineer should have checked the system wouldn't refill at the first visit.
- One of the engineers told them that one leak which was the largest of them all was caused by a previous engineer breaking a pressure release valve. And various leaks were caused due to excess pressure in system.
- Drying equipment wasn't installed until three months after the leak.
- LV has not specified which parts of the claim costs were not due to the contractors.
- No payment has been made as a gesture of goodwill but rather because LV was legally liable for them
- LV caused the damage and refused to carry out repairs for months. They had to get up through the night to empty water containers, start fires for heat and spend considerable time on calls to LV.
- LV put forward properties for alternative accommodation with one or two bedrooms but no working space and which were inaccessible to them and their family.
- The damage caused by the initial insured leak was natural drying out of ceiling, sealing and repairing the ceiling.
- For three months they were without use of bathrooms on the ground and first floor, having to climb stairs to use one on the second floor, which was inconvenient and troublesome for them and meant they couldn't have guests.
- On numerous occasions LV didn't return calls and didn't turn up to appointments.

While the complaint was with us, LV also increased its offer to Mr and Mrs C and ultimately agreed to pay the following in total:

1. The hotel accommodation for around a week (£700). It says Mr and Mrs C refused other alternative accommodation offered.
2. Disturbance allowance of £12.50 per day for two people for 192 days (being the period between the date of loss and the completion of repairs), totalling £4,800, even though the property was not uninhabitable.
3. The cost of the replacement boiler.
4. The cost of the paddling pool used to collect water and two electric heaters, Totalling £188.
5. £1,654.86 additional electricity costs for running electric heaters.
6. £170 for logs
7. £158.55 for meals while at the hotel.
8. £442.74 electricity costs during period drying out the property.

I understand that everything apart from the disturbance allowance has already been paid.

One of our Investigators looked into the matter. The Investigator considered the payments set out above were fair and reasonable. However, she recommended that LV also pay compensation of £850 for the trouble caused to Mr and Mrs C by the matter. The repairs had not been completed at the time of the Investigator's assessment, so she also said that LV should progress the required repair works as a priority given the delays, or offer a cash equivalent of the repair costs would cost Mr and Mrs C. The Investigator also said that LV should ensure that any damage caused by its contractor should not be recorded as part of the claim on Mr and Mrs C's insurance record.

Mr and Mrs C did not accept the Investigator's assessment, so it was passed to me.

Mr and Mrs C said the compensation proposed is not sufficient to reflect the trouble caused to them. They also said that they had not been offered any disturbance allowance.

Mr and Mrs C also complained about the renewal price quoted for the policy with LV in August 2023, which they said increased considerably because of the open buildings insurance claim registered against them. They said they could not get quotes from other insurers because they did not know the value of the claim recorded against them and how much of the repairs LV had attributed to the contractor's error.

LV said that £308.37 of the increase in premium quoted was due to the claim. The rest of the increase was due to general price increases. It says Mr and Mrs C are free to insure elsewhere. LV also says that not all the claim costs were due to the contractor, as the initial leak would have caused enough damage to have warranted a home insurance claim anyway, so it says it has correctly recorded the claim but it is seeking to recover part of the repair costs from the contractor in line with the Investigator's assessment.

LV has also said the total cost of the claim was £20,000 (though it is not clear whether this includes VAT, it implies it does) and it intends to recover £2,164.67 plus VAT of that from the contractors. LV also confirmed that its underwriters don't take into consideration the cost of a claim when determining premiums.

LV also offered a further £100 compensation for the delay in providing this information to Mr and Mrs C. I cannot consider this as part of this complaint, only whether it is fair to record the claim in part or at all as a home insurance claim.

Mr and Mrs C remain unhappy and say that as the tank was replaced as a gesture of goodwill, it should not be included in the claim total.

Mr and Mrs C also said that there is no evidence or information about what happened to their property prior to the loss adjuster report on 2 December 2022. The report treats the damage as being from one incident and ignores the actions of the engineer; it also contains mistakes and says the original leak was from the immersion heater, when it wasn't. Mr and Mrs C therefore say there is no evidence from LV to support that any part of the home insurance claim was due to the initial leak. In the absence of any such evidence from LV, I should take their testimony that the damage to their property was "*almost exclusively caused by the engineer and not the original claim*".

I issued a provisional decision on the matter in September 2023 and made the following provisional findings:

"I can see that what should have been a relatively straightforward water leak claim turned into a frustrating saga for Mr and Mrs C.

LV accepts that its contractor caused some further damage. It seems to accept that the contractor left the inlet valve open, putting pressure on the system. It is the extent of what went wrong and the extent of the damage as a direct result of this that is in dispute. The damage by the subsequent water leaks was dealt with under the insurance policy cover for escape of water and LV proposed to recover the costs relating to negligence by its agents but Mr and Mrs C are correct that any work required solely as a result of LV's error would be recoverable from LV outside the terms of the insurance policy.

LV has now put right the damage to the property. (I note Mr and Mrs C are unhappy about the time taken to do so and other aspects of the repair process, which I will deal with below.) LV says that the majority of the repairs were required anyway and so an insurance claim was inevitable and there has been no prejudice to Mr and Mrs C by the value of the claim registered.

Mr and Mrs C say no claim should have been registered at all.

Recording of home insurance claim

Mr and Mrs C have said that the initial leak from the expansion vessel in the airing cupboard, consisted of "*very small drips from a red balancing cylinder during our time away on holiday and water had dripped down onto the shower room*". They say this caused minor staining but no bowing of the ceiling plasterboard; there was no damage to the electrics; no water was escaping from the wall behind the tiles and no water from the tank or other pipework.

Mr and Mrs C confirm they have no other evidence of this (such as photos or videos) but are prepared to provide signed statements to this effect.

Mr and Mrs C say that they would not have needed to have made a home insurance claim for the initial leak, as the decorative repairs would have been minimal and would have cost less than the excess.

After LV's engineer had attended, Mr and Mrs C describe the leak they found as follows:

“there were leaks from the hot water tank and other pipework which caused water to gush into the airing cupboard area and pour down into the shower room the electrics had started to fail, water was coming down the walls behind the tiles, through the ceiling and via the electrical system and the ceiling was bowed and distorted.”

Mr and Mrs C also say that this was not repaired for weeks and they had to empty buckets of water through the day and night for several weeks and even though they collected most of the water, they could not catch it all and so the damage continued. Mr and Mrs C are therefore adamant that most of the property damage was caused by the later leaks.

They also say that as there is no photographic or other contemporaneous evidence of the damage caused by the first leak, I must accept their testimony that there was minimal damage that would not have resulted in a home insurance claim.

We are an informal alternative to the court system. We do not regulate the insurance industry and we do not have the power to interrogate witnesses or to take evidence under oath. We do have the power to undertake some investigations and to make binding decisions as to what we think is the fair and reasonable outcome to individual case. Where evidence is conflicting, I therefore need to decide what is most likely based on the available evidence.

Without much contemporaneous evidence it is difficult to determine exactly what damage was caused and whether a home insurance claim would have still been made. I have to therefore weigh up the evidence that is available and consider what I think is most likely in all the circumstances.

Mr and Mrs C had been away for two and a half weeks before finding the initial insured leak according to the file. It is impossible therefore to know how long the leak had been going when Mr and Mrs C found it. I also note that they reported that water was dripping through the ceiling onto the floor below.

Mr and Mrs C referred to damage to the bathroom below when they reported the claim. From my experience, water also takes a while to penetrate a ceiling and it seems to me that for the water to have gone through the ceiling and been dripping onto the floor below, there would have been a significant volume of water leaking.

Mr and Mrs C have given their testimony about the ceiling below but it seems unlikely to me that there would have been no damage to the flooring of the airing cupboard and structural woodwork in the cupboard and the bathroom ceiling from the water penetrating, in addition to the staining of the ceiling.

I say this also because Mr and Mrs C point out that the photos in LV's loss adjuster's report were all taken after the later leaks caused by its engineer but from those photos the only visible damage to the bathroom, below the area of the leak, seems to be staining of the ceiling. I cannot see any obvious bowing or cracking of the ceiling in those photos, and I note the lights seem to be on in the photos. However, I understand this ceiling needed to be replaced.

In April 2023, Mr and Mrs C have provided a photo of the bathroom ceiling, which shows a crack near the wall (although it appears to be a different colour ceiling than in the loss adjuster's photos). It is not clear exactly when this was taken. I've also seen the videos provided by Mr and Mrs C of a steady dripping from the cylinder, boiler and expansion vessel in the airing cupboard, being collected in buckets.

The crack in the photo provided by Mr and Mrs C is relatively small and there is no bowing of the ceiling visible in this photo either. It would not be obvious just from this photo that the ceiling would need to be replaced.

So given that if even after the later leaks, the only visible damage to the bathroom below was staining of the ceiling and one crack, and the lights worked, it means it is difficult to assess the full extent of property damage that can't be obviously seen from the room below.

Having considered everything carefully, I therefore think it likely overall that there would have been some damage to the airing cupboard floor and the bathroom ceiling, that would have cost more than the policy excess for a home insurance claim and so while the later leaks were clearly significant, I think it is difficult to conclude that no home insurance claim would have been required at all.

Having determined that a home insurance claim would have been likely in any event, I do not think I need to determine exactly which repairs were required as a result of the initial insured leak or were required as a result of the contractor's mistake. I say this because LV says its underwriters do not take account of the value of a claim when setting premiums and I have not seen any evidence that Mr and Mrs C have been charged more by any other insurer as a result of the value of the claim, as opposed to the fact that a claim was made at all.

As I think a home insurance claim would have been made in any event, I do not therefore see that there is any award I can reasonably make in regard to LV recording a home insurance claim.

Handling of home insurance claim

While LV accepted responsibility for the damage (either as a result of the contractor's error or under the home insurance) it is clear these were not carried out as quickly as they could have been, which exacerbated the problems caused.

I understand the water continued to leak, albeit largely being contained. I've not seen any clear evidence about why that was and why it could not have been isolated but it may be that ... a decision [was made] to keep running the system (rather than drain it down completely) in order that Mr and Mrs C had heating, as they said the heating was back on after a week but it meant that they had to empty buckets several times a day for around four weeks.

Elsewhere Mr and Mrs C say the leaks continued until late December 2022 but I also see that on 28 December 2022 they wrote to say "*our first floor bathroom and hall/kitchen have now been unaffected by leaks for a month and you have not instructed the drying contractor but just permitted the damage, mould and smell to grow*".

It is therefore not entirely clear but in any case, I think the leaks should have been resolved sooner than they were.

LV paid for a short hotel stay for Mr and Mrs C (which I understand was the period when the heating was not working) and offered alternative accommodation and the cost of a cattery for a longer period. While I can understand Mr and Mrs C's reasons for preferring to stay at home, I do not think LV was at fault for not finding accommodation that was suitable for them. LV offered assistance in finding a hotel but they say didn't assist in finding alternative accommodation close enough to relatives that needed them and would allow suitable facilities to work from home.

LV did suggest various rental properties some of which were listed as having three bedrooms which would have provided a workspace and would accept pets. Mr C says they should have checked their suitability better but LV was providing the information listed on a rental site, I don't think LV was being unreasonable in proposing these properties and it was up to Mr and Mrs C to consider if they were suitable for them. LV could only propose what was available and alternative accommodation in these circumstances will often be a compromise. I do not think that LV acted unreasonably in relation to the alternative accommodation. As they continued to live in the property, LV offered a disturbance allowance instead. I will address that further below.

Mr and Mrs C are also unhappy with a number of other aspects of the handling of the claim, including the time taken to start drying out the property and to start the repairs. Ultimately, I understand the repairs were all completed in June 2023.

Again, I do not think it is necessary to determine exactly what went wrong and when. I say this because even if I give Mr and Mrs C the benefit of any doubt and accept everything they have said about the handling of the repairs, I think LV has made an offer of compensation that would be reasonable to reflect everything that has happened.

LV offered a disturbance allowance in December 2022 of £10 per day and I can see that Mr C replied stating this was inadequate. LV offered a disturbance allowance again in July 2023. This time it offered £12.50 per day each for Mr and Mrs C and it offered this for the entire period of the claim, even though the property was inhabitable for much of it (so a total of 192 days at £12.50 = £4,800).

I would reasonably expect a disturbance allowance if repairs were such that the customer would otherwise be offered alternative accommodation. And Mr and Mrs C say that LV has saved on that cost as they chose to remain at home (other than for one week). However, I have not seen any convincing evidence that the property was uninhabitable from the end February to June 2023. So there would be no obligation to pay alternative accommodation for that period. The disturbance allowance is therefore effectively compensation for the trouble caused by the repairs.

It seems to me to be appropriate to me in a case like this, to incorporate all of the issues into a global award for distress and inconvenience. Having considered everything, I consider that the sum additional sum of £850 compensation, taken together with the disturbance allowance and other payments already offered by LV, to be reasonable for the financial loss and the distress and inconvenience suffered by Mr and Mrs L in the circumstances. This award reflects the distress and inconvenience caused by the entire matter, including the damage caused to the property; further damage due to the delays, the missed appointments; time and effort involved in appointments, amongst other things. This is in line with awards made for cases where there has been exceptional distress and inconvenience.

My provisional decision

I intend to uphold this complaint and require Liverpool Victoria Insurance Company Limited to pay Mr and Mrs C total compensation for distress and inconvenience caused by the handling of this matter of £5,650 (made up of the disturbance allowance already offered as above and an additional £850).”

Responses to my provisional decision

I invited both parties to respond to my provisional decision with any further information or arguments they want considered.

LV has confirmed that it accepts my provisional decision.

Mr and Mrs C do not accept my provisional decision and have asked me to reconsider my findings. They have made a number of further submissions. I have considered everything they have said but set out the main points below:

- Mr C is an expert in insurance property damage claims.
- I said at the start of my provisional decision that the complaint was not upheld but then determined that it was upheld.
- I have made errors of understanding relating to the technical nature of the failure and damage that resulted.
- I said there was another leak from the expansion vessel when this is not correct. The first leak was from the bottom of the expansion vessel. After LV’s engineer came out the next day they found leaks throughout the system in the first floor cupboard area at joints in the copper pipework and from joints on the hot water cylinder, not the expansion vessel. The volume of water that would leak from these pipes and tank is far greater than that which could leak from the expansion vessel. If the error in my decision is corrected it becomes obvious that the main source of the damage as the rupture of the pipework in the tank and cupboard pipework which failed as a result of LV’s engineer.
- LV has said the leak was caused by a filling loop being left open. This has not been raised before and would have been evidence to the first engineer. LV has therefore prejudiced his position by not raising this previously. Even if it is correct, it is odd this was not raised previously; it is not in any reports or that there is any photographic evidence of it.
- If the cylinder was replaced as a gesture of goodwill, it should not be counted as part of the value of the claim. The heating engineers said the replacement of the tank cost £7,000 to £10,000 to replace. My decision is inconsistent in this respect as it is wrong to acknowledge this was not part of the claim and then allow it to be counted as part of the claim value.
- A disturbance allowance was not offered previously. If it was the matter would probably not have come to us.
- LV says the value of the claim doesn’t affect premiums going forward. They do not accept this but in any case say that I should consider wider industry practice and not just LV’s underwriting criteria. All the insurers he approached for quotes asked the value of the claim and they would not have done so, if it was irrelevant to the price.
- They have spoken to two brokers who have told him the value of a claim does affect the price of future policies.
- Alternatively, if it has no impact LV should accept his proposal that the claim be recorded as being due to third party action.
- My conclusion that the cost of repairing the damage caused by the first leak would cost more than the excess and so therefore home insurance claim would have been

made is perverse and unsupported by the evidence. It was for them to decide if a claim would be made under their home insurance and they have provided evidence that they were not intending to do so. That decision would be affected not just by the level of damage but the effect on future insurance. Mr C would have done the redecoration and minor carpentry works required. I have applied the wrong test, by only looking at the loss.

- The only evidence about the effect of the first leak is from them. LV has chosen not to provide any evidence.
- I have apparently construed the absence of photographic evidence against them but LV attended and it should have taken photographs.
- I have not taken sufficient account of their actual knowledge of the damage and replaced this with my own experience despite lack of evidence to support my decision.
- They make no submission on the level of compensation save where it represents the increase in premiums – which they say it does not – and wants this addressed instead by the figure recorded for the claim being substantially reduced.

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.

I said at the start of my provisional decision that the complaint was not upheld, which was not correct, as I have upheld the complaint in part. This was a typing error but does not impact the decision or outcome.

Mr and Mrs C say that I have misunderstood the sequence of events and the different parts of the central heating system. They say I have referred to a second leak being from the expansion vessel, which is not correct, and that if I understood the different components it would be clear to me that the leaks that occurred from the cylinder and the pipework in the cupboard that houses the cylinder and expansion vessel, were the main cause of the damage to the property.

I confirm that I understood when considering my provisional decision the sequence of events and that there had been multiples leaks after LV's initial attendance. I set out in the background section of my provisional decision a brief summary of the events that had happened. I set out that after LV's engineer first attended there was a leak from a radiator, that the system had kept filling putting pressure and causing further damage to the system (which was reference to the leaks from the joints in the rest of the pipework) and that there was another leak from the expansion vessel because it had split. The evidence on the file is that the expansion vessel had later split and needed replacing, so this is correct. I also set out that the cylinder had cracked split and was leaking. There is no dispute between the parties that there were multiple leaks from the pipework in the cupboard housing the cylinder and expansion vessel.

I stated that it was difficult to know how much water had leaked initially, as Mr and Mrs C only discovered the leak after returning from holiday. They say I have construed a lack of photographs of the property damage at that time against them. I stated that there was no contemporaneous independent evidence of the damage caused by the first leak. I have not construed this against Mr and Mrs C but pointed out this makes it difficult to be certain what the extent of the damage caused by the first leak was.

Mr and Mrs C have provided their testimony and while I have no reason to doubt what they say, it is just one piece of evidence, that I have to weigh up with everything else available to me, including my knowledge and experience of similar matters.

I noted that Mr and Mrs C reported that the first leak was significant enough to have penetrated the ceiling below and drip onto the floor. They reported there was staining to the ceiling. To have caused this, there would have been a significant volume of water. So while it may have been a smaller/slower leak, it could have been going on for over two weeks and therefore involved a large volume of water altogether. I also noted that the photographs provided in the loss adjuster's report, taken after the later leaks, don't show any damage to the ceiling other than staining.

I therefore thought it was likely there would have been some damage to the woodwork, flooring and ceiling below that would have warranted a home insurance claim in any event. Mr and Mrs C are correct that the decision whether to make a home insurance claim or not would be for them to make and that this is influenced for most people by other factors and not just the amount of the excess. However, I have to consider what is most likely. It is not possible to know for sure. Mr C says he would have undertaken the required works himself but it seems to me that if there were damage to the flooring and ceiling that would cost more than the policy excess, most people would go ahead with a home insurance claim. I have no power to take evidence under oath, and this is not an exact science. I have to consider what I think is most likely, having weighed up all the evidence provided to me. Having considered everything again, I remain of the opinion that it is likely Mr and Mrs C would have still gone ahead with an insurance claim.

With regard to the value of the claim, Mr and Mrs C says that the value of the claim is relevant otherwise other insurers wouldn't ask for it and I should consider the general industry practice not just LV's underwriting criteria. However, there is no evidence that Mr and Mrs C have been charged more as a result of the value of the claim, as opposed to having made any claim at all, and in the absence of any such evidence I remain of the opinion that there is no award I can reasonably make in this regard.

Mr and Mrs C also say that if it makes no difference to the premium, then LV should simply record the claim as being the result of third party action. However, as I do not think it has recorded the claim incorrectly, I do not consider it reasonable to require LV to change the way it recorded the claim.

Mr and Mrs C say also say again that they were never offered a disturbance allowance. There is evidence on the file that they were offered an allowance of £10 per day in December 2022, which was refused. LV later offered £12.50 per day for the entire period of the claim. As there was no obligation to pay a disturbance allowance for any period the house was habitable, I considered this to be an offer of compensation.

I remain of the opinion that the additional sum of £850 compensation, taken together with the disturbance allowance and other payments already offered by LV, is reasonable compensation to reflect the financial loss and the distress and inconvenience suffered by Mr and Mrs C in the circumstances. This award reflects the distress and inconvenience caused by the entire matter, including the damage caused to the property; further damage due to the delays, the missed appointments; time and effort involved in appointments, amongst other things. This is also in line with awards made for cases where there has been exceptional distress and inconvenience.

My final decision

I uphold this complaint and require Liverpool Victoria Insurance Company Limited to pay Mr and Mrs C total compensation for distress and inconvenience caused by the handling of this matter of £5,650 (made up of the disturbance allowance already offered as above and an additional £850). If any part of this has already been paid then Liverpool Victoria Insurance Company only needs to pay the remaining balance.

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

Harriet McCarthy
Ombudsman