

The complaint

Ms C complains that Highway Insurance Company Limited (Highway) has dealt with a claim she made on her home insurance unfairly.

What happened

Ms C made a claim for a damaged heater she used in her outdoor pool. Highway agreed to consider this, and that it would meet the claim. It told Ms C it would pay the replacement cost of the heater. A couple of days later it said that was a mistake and the maximum it would pay was £250 as there was a limit for items damaged in the open.

Ms C complained, and Highway acknowledged it had incorrectly said it would meet the claim in full – but that it wouldn't pay the full amount. It did say it would pay her £70 to make up for mistakenly saying the claim would be met in full.

Ms C asked us to review her complaint. Initially our investigator agreed that Highway need not meet the full amount, but on a further review concluded that the terms and conditions for the section of the policy Highway was using to meet the claim *didn't* include a £250 upper limit. He thought Highway should meet the cost of the new heater – about £650 and additionally pay Ms C an extra £80 compensation as she would have been upset by her children's disappointment when the pool couldn't be used.

Highway objects to this, saying the terms and conditions applied to the claim are an industry norm and it's offered to settle the claim fairly.

I've been asked to decide this complaint.

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'm upholding this complaint for much the same reasons as our investigator gave. I'm not going to repeat all that he said, but I will expand a little on how I reached my conclusions.

I can see that there was some internal debate at Highway about how to interpret the terms and conditions of the policy that apply to this claim. There's acknowledgement that they seem confusing, but an eventual conclusion that accidental damage cover applies to items in the open. So I need say no more about how "in the open" is defined in the policy.

My reading of the policy and internal records for Highway is that the claim is being met under the extended accidental damage part of the policy. And I think that's confirmed by a member of staff saying there's no reason this cover shouldn't apply to items in the open. I'm persuaded this means the claim is being met under the clause headed "extended accidental damage". So this is the set of conditions that applies to the claim. There's no individual item limit in this clause – so the limit that should apply is the general limit of £15,000 that applies to all claims.

I accept that there's a limit of £250 for items "in the open" in another part of the policy – but there's no mention of accidental damage in this section. I don't think Highway can fairly transfer limits from one section of the policy to another when it's not meeting the claim under the section that contains the limit.

Furthermore, where a set of terms and conditions can be interpreted in different ways, this service normally concludes that they should be interpreted in favour of the party that *didn't* write them – in this case in Ms C's favour. Highway is the expert here, and can clarify the terms and conditions if it wishes to avoid similar situations in the future.

Highway says it's meeting the claim in line with industry norms. I'm not persuaded that should alter my conclusions. I'm only looking at the circumstances of this particular complaint, and my decision is not intended to set a precedent.

Putting things right

Highway should settle this claim by meeting the cost of the heater based on the evidence Ms C provided. It should do that in line with any other relevant terms and conditions – for example by deducting the relevant excess. Ms C paid for the heater herself so she's been out of pocket for some time. Highway should therefore add interest to the settlement from the date Ms C bought the heater to the date of payment. It should add interest at the statutory rate of 8% per annum simple. Highway might be required by HMRC to deduct tax from the interest before payment. If it does that it should also give Ms C Highway a certificate showing how much was deducted.

Our investigator recommended a total of £150 compensation to make up for the errors Highway made and the upset Ms C suffered when her children were disappointed. I think this is fair overall, taking into account the fact that Highway incorrectly refused to meet the claim.

My final decision

My decision is that I uphold this complaint and require Highway Insurance Company Limited to meet the claim and compensate Ms C as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 29 July 2024.

Susan Peters
Ombudsman