

The complaint

Mr C has complained that Gresham Insurance Company Limited ('Gresham') declined his claim for water damage under his home insurance policy, following a leak from a frozen pipe. For the avoidance of doubt, the term 'Gresham' includes its agents and representatives for the purposes of this decision.

What happened

Unfortunately, Mr C's property suffered significant damage over two floors following a leak from a frozen, then burst pipe, supplying the water tank. Mr C had been away for a significant period and came home to find the damage. The carpets needed to be removed and the walls had water damage. Mr C couldn't stay in the property due to a health condition and he went to stay at a friend's property. Mr C had engaged a builder who recommended dehumidifying and removing carpets as soon as possible. Mr C said he asked Gresham if he could go ahead.

Gresham declined Mr C's claim as it considered that Mr C hadn't provided it with all necessary information to validate his claim. It also said that he'd proceeded with work before it was able to authorise it. As Gresham didn't uphold Mr C's complaint, he referred the complaint to this service. The service's investigator didn't consider that Gresham had acted in an unfair or unreasonable manner. He said he couldn't find any persuasive evidence to suggest that Gresham had said that it was fine for Mr C to proceed with any work and to proceed with his own builder.

Mr C was unhappy with the outcome of his complaint and the case has now been referred to me to make a final decision in my role as Ombudsman.

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.

The key issue for me to determine is whether Gresham applied the terms and conditions of the home insurance policy in a fair and reasonable manner in declining Mr C's claim. I consider that it did so, and therefore don't uphold Mr C's complaint. I'll explain why.

Firstly, I turn to Mr C's submissions regarding his claim. Mr C explained the circumstances surrounding his lengthy absence from his home from December 2022 to the end of January 2023. Mr C said that he was absent for 51 days and that his policy stated that the property could be unoccupied for 60 days. Mr C said that when he discovered the damage to his home, he was unable to stay there due to his health condition, as the walls and carpets were covered with black mould. He then submitted his insurance claim to Gresham six days later, once he'd gathered the relevant information. On the same day, Mr C asked a builder to visit his home to assess it, *'because the water damage was getting worse with damp climbing through the walls and floors, and I needed to stop the damage, which would also reduce the claim.'* The builder recommended removing all the items that were mouldy and to start

dehumidifying the property to prevent further mould growth. Mr C gave the date when he said the damage occurred in December 2022.

Mr C said that he received an e-mail from the insurer the following day, asking a number of questions, which Mr C answered the same day. Further information was then requested and provided, including details of the damage and photographs of every room. By mid-February, Gresham's representative informed him that an assessor would need to visit, and he would then offer a settlement figure for Mr C to use his own builder or Gresham's approved builder. The assessor contacted Mr C shortly after and said he hoped that Mr C hadn't carried out any works and that the claim may be compromised due to the delay in reporting it. The assessor attended in early March 2023. At that meeting, the assessor was unsympathetic, and had asked why Mr C had got his builder to come in and clear out. Mr C explained this was to prevent further damage, that he'd informed the insurer, and it had said this was fine.

Mr C confirmed that the work done was to clear out all the water damaged items and install commercial dehumidifiers to remove the water moisture from the house and no repairs were done. He was adamant that the insurer was aware and didn't object to this, and indeed he was asked what he'd done to mitigate the damage. Mr C said that there was proof that he'd asked about carrying out the dehumidifying and clearing work as this was in Gresham's notes. He argued that if Gresham had declined his request over the phone, this point would have been noted down as it would have been a critical point. He said the notes were silent on this. He felt that if he hadn't taken this initial mitigation action, then this could have also been used against him to decline a pay-out. He believed that he'd acted reasonably in taking initial mitigation action.

Mr C said that it took over a month for the assessor to visit and that if he'd waited until then, the damage would have been far worse. He said he'd had to rent out alternative accommodation, for which he would also need to claim for, as there were extra living expenses incurred, although he also said that he'd been able to secure accommodation with a friend for free. He also complained about the delays within the complaints process.

In summary, contractors were eventually due to start work in September 2023, and Mr C was looking for Gresham to reimburse him for the initial clear-out, the actual work to repair his home, and the rent he'd been paying for alternative accommodation. Mr C added that this was the first time he'd had to make a claim in 20 years of being a homeowner. He said that he was not now asking for the damaged items to be replaced, and he just wanted to be compensated for the repair to the house.

I now turn to Gresham's submissions regarding this matter. It considered that Mr C hadn't provided satisfactory explanations to certain queries in a timely manner. It said it hadn't been satisfied that adequate responses had been provided to questions, such as whether Mr C was living at the property prior to early December 2022, the date that he discovered the leak, and if the water was still running when he entered, dates he'd contacted contractors and their details, as well as appointments and dates and evidence of travel abroad. It also stated that Mr C hadn't notified it of the damage in a reasonable time-frame and engaged contractors to carry out works without its authority.

Gresham stated that its policy terms and conditions were clear. It said that Mr C was required to give Gresham all the relevant information, documents, and assistance to enable any claim to be validated. If such information wasn't complete or accurate, it said it could then cancel the policy and refuse to pay any claim, decline to pay any claim in full, or revise the premium and/or change any excess. It also said that as soon as a policyholder became aware of a claim event, he was required contact Gresham as soon as reasonably possible and avoid discussing liability with anyone else without its permission.

In summary, Gresham didn't consider that Mr C had provided the necessary information to allow it to validate the claim, he'd proceeded with repairs prior to authorisation, and the claim was also notified two months late. It said that the breach of policy conditions had *'made it extremely difficult for us to validate your claim and you have also disposed of many items without offering us an opportunity to inspect them to see if items could have been restored or to evaluate them.'*

I now turn to my reasons for not upholding Mr C's complaint. The starting point for my decision will be the terms and conditions of the relevant policy, which form the basis of the insurance contract between policyholder and insurer. I note that the policy does cover Mr C in principle for damage caused by escape of water events. As with all policies, standard conditions and exclusions do apply.

In this case, the policy conditions state that it's for the policyholder to prove any loss and therefore to provide all the relevant information, documents, and assistance that the insurer requires to enable any claim to be validated. It explains that a claim may be declined if this isn't provided. They also require the policyholder to inform Gresham as soon as reasonably possible of any event likely to lead to a claim under the policy, and also to avoid discussing liability with anyone else without its permission. The policy also excludes damage caused by water escaping from frozen pipes where the home had been left unoccupied for more than 60 days. I won't consider this however, as Gresham hasn't declined the claim on this basis.

This is a finely balanced decision, and I have sympathy for Mr C's predicament. He'd paid his policy premiums, believing that he would then be covered in the event of the type of incident that occurred. I appreciate that as he's not previously made any insurance claims as a homeowner over a period of 20 years. He was therefore unlikely to have been familiar with the standard claims processes. I can also entirely understand that on discovering such significant damage at his home, Mr C would have wished to press on with work to remedy the damage caused. Mr C reasonably stated that the work didn't consist of any repair works, and they would avoid further deterioration and secondary damage. However, there is good reason for insurers to require policyholders to contact them in the first instance as soon as possible, and before any other third-party organisation is instructed. This enables the insurer to guide and advise the claimant on appropriate steps to take and so as not to prejudice any validation process or investigation.

I do also take Mr C's point that he'd informed Gresham of the fact that his builder had seen and assessed the damage and suggested he take immediate action to reduce further damage. This point is recorded in Gresham's case-notes. I also take Mr C's point that if Gresham had challenged this course of action that it would have been expected to note this, as it would have been a critical point. On the balance of probabilities, I consider that even if Gresham didn't actively sanction the course of action, I consider that it acquiesced in this course of action. In the circumstances, I don't consider that it was unreasonable for Mr C to have carried out this preliminary work. However, it does appear that Mr C contacted his builder first and then told his insurer that he had done this. The policy makes it clear that the policyholder shouldn't discuss liability with any other party, and I consider that there's been a technical breach of the policy in this respect.

More importantly however, the second provision of the policy upon which Gresham relied was that relating to the need to provide adequate information in order to validate the claim. It's in this respect that I consider Mr C has fallen short of the key requirements of the policy. I consider that it was reasonable for Gresham to ask for more information around the discovery of the leak damage. Whilst Mr C has explained that he was abroad for a part of the relevant period, and had health issues prior to this, there's no explanation as to why Mr C hadn't checked the property prior to travelling. He said that the leak event happened on a specific date soon after he last occupied his property and didn't explain how he'd become

aware of the specific incident date. There was also no explanation as to whether the water was still running when he discovered the damage, evidence of the dates he'd contacted his builder and their details, and no details of appointments and dates of travel abroad.

I consider that it was legitimate for Gresham to ask these pertinent questions as to the circumstances surrounding the leak event. Insurers will inevitably ask robust and searching questions where a significant claim is made, to ensure that it's valid and to safeguard the insurance sector for legitimate claims. This isn't to say that Mr C's claim wasn't legitimate. Unfortunately for Mr C however, I'm unable to say that Gresham acted in an unfair or unreasonable manner by asking these questions, and in declining Mr C's claim when it reasonably considered that Mr C had failed to provide adequate answers to these pertinent questions. As to the time taken for an assessor to attend the property, I don't consider that there was a wholly unreasonable delay here. I consider that Gresham had proceeded relatively quickly following Mr C's notification to it of the escape of water.

I appreciate that this decision will come as a great disappointment for Mr C and, as stated above, I do consider it to be finely balanced. However, on balance, I can't say that Gresham acted in an unfair or unreasonable manner in all the circumstances, in light of the fact that it hasn't received adequate answers to reasonable questions around the timing and circumstances of the event and its discovery.

My final decision

For the reasons given above, I don't uphold Mr C's complaint and I don't require Gresham Insurance Company Limited to do any more in response to his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 27 September 2024.

Claire Jones
Ombudsman