



<b><u>Decision Ref:</u></b>	2020-0232
<b><u>Sector:</u></b>	Insurance
<b><u>Product / Service:</u></b>	Household Buildings
<b><u>Conduct(s) complained of:</u></b>	Claim handling delays or issues
<b><u>Outcome:</u></b>	Rejected

**LEGALLY BINDING DECISION  
OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

This complaint concerns the decision by the Provider not to offer payment of the claim submitted by the Complainant in full and in line with the invoice that was submitted by the Complainant to the Provider.

**The Complainant's Case**

The Complainant held a house insurance policy with the Provider. On **25 April 2018** the Complainant contacted the Provider to advise that he had noticed storm damage to the interior of his property. The Complainant had not contacted a builder to inspect the property.

The Complainant was advised that the Provider would be appointing a loss adjuster to deal with the claim on behalf of the Provider in line with normal practice. The Provider appointed a loss adjuster who arranged for an inspection of the property to be carried out on **4 May 2018**.

The Complainant states that he was unhappy with the initial inspection carried out by the loss adjuster acting on behalf of the Provider, as the initial inspection was carried out from ground level rather than carrying out a closer inspection, using a ladder.

The Complainant further states that a second inspection took place on **18 June 2018** and the Complainant provided a ladder to facilitate the inspection. The Complainant states that he queried whether the loss adjuster's employee was insured to carry out the inspection using a ladder.

Following the second inspection by the loss adjuster, the Provider offered settlement of the Complainant's claim as follows

*“Buildings €1645.00  
Less Policy Excess €250.00  
Net Settlement €1,395.00  
Less Retention €493.50  
Net Payable €901.50”*

This settlement proposal was based on the initial estimate/invoice submitted by the Complainant.

The Complainant states that following the inspection and a settlement offer by the Provider, the Complainant changed contractor because the contractor initially chosen to carry out the repairs to the roof of his house was not immediately available to do the work.

The Complainant states that during these works, the contractor noticed damage to other valleys in the roof, which resulted in a slight increase in the cost of repairs. The Complainant further states that as new flashings were used rather than lead valley replacements, the overall cost was minimised. The total cost of the repairs to the roof of the Complainant's house as set out in an invoice from the contractor who executed the repairs dated **28 June 2018** was €2,500. The Provider declined to make payment of the increased amount.

The Complainant further complains that the Provider increased his renewal premium from €500 to €541. The Complainant states that on the renewal notice, the Provider refers to an outstanding claim when in fact no payment had been made.

The complaint is that the Provider has wrongfully declined to pay the Complainant's claim in respect of damage to the roof of his house caused by water ingress, in line with the revised cost of repairs as set out in the invoice submitted by the Complainant to the Provider.

The Complainant seeks for the Provider to pay the sum of €2,500 being the cost of the roof repairs less a policy excess of €250, leaving a balance of €2,250.

### **The Provider's Case**

The Provider states that on **25 April 2018** the Complainant notified it of a storm damage claim to the interior of his property. A loss adjuster was appointed on behalf of the Provider to deal with the Complainant's claim. On **4 May 2018** an inspection of the property was conducted by the loss adjuster. The loss adjuster subsequently received a quotation from a roofing contractor setting out that the cost of repairs for the Complainant would be €1,675.75.

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The Provider states that the Complainant was advised by the loss adjuster on **13 May 2018** that he required photographs of the damage before completion of the works and not after. The Provider states that it was explained to the Complainant that it would need to see evidence of the storm damage before it could proceed with the claim.

The Provider states that if additional damage was discovered by the second builder evidence of this damage should have been retained. The Provider further states that in the absence of any photographs evidencing the damage it has no evidence that an insured peril caused any damage to support the increased claim amount.

The Provider states that the invoice of €2,500 represents additional work over and above what was evident during the loss adjusters two separate site inspections. The Provider states that the damage which was agreed by the loss adjuster to have arisen due to an insured peril, in this instance a storm, was agreed and the amount of repair in the sum of €1,645.00 was offered in settlement, subject to policy excess and retention.

The Provider states that its loss adjuster made his offer of €1,640.00 on the basis of damage which, in his opinion had arisen as the result of a storm. The Provider states that this offer was made following presentation by the claimant of an estimate which was agreed in full.

The Provider states that this issue arose because the Complainant presented a claim for repairing two additional lead valleys for which there was no evidence presented to substantiate an insured peril.

The Provider states that in the 'step by step' guide issued to the Complainant upon notification of the claim it states:

*"3. Please return your completed claim form along with a written itemised estimate for the loss or damage to your claims handler. The estimate should include a description of the damage and the cause of the loss.*

*Please provide photographs of the damage to your property.*

*4. Please note – you should not proceed with repairs without our approval (other than emergency repairs to limit the damage). Please retain all damaged items so that we have an opportunity to inspect same if necessary. It is important to remember that you must report any incident involving a loss, theft, malicious damage or hit and run damage to the Gardaí".*

The Provider states that the Complainant contacted it to query the effect on his policy should the claim proceed and to query the renewal premium. The Provider states that no queries were raised in relation to the policy cover. The Provider further states that the onus is on the policyholder to advise the Provider if they are unclear about the policy cover.

The Provider states that the renewal documentation was generated on **27 August 2018** and posted to the Complainant. The Provider states that the Complainant telephoned its offices on **6 September 2018** to discuss the renewal quotation therefore, he received the renewal documentation that was issued to him.

### **The Complaint for Adjudication**

The complaint for adjudication is that the Provider wrongfully declined to pay the Complainant's claim in respect of damage to the roof of his house following a storm. The Complainant further complains that his renewal premium was increased from €500 to €541 and that on his renewal notice the Provider refers to an outstanding claim when in fact no payment had been made.

### **Decision**

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint.

Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on 9 January 2020, outlining my preliminary determination in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

Following the issue of my Preliminary Decision, the following submissions were received from the parties:

1. E-mail from the Complainant to this Office dated 29 January 2020.

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2. E-mail from the Provider to this Office dated 30 January 2020.
3. E-mail from the Complainant to this Office dated 13 February 2020.
4. E-mail from the Complainant to this Office dated 23 March 2020.
5. E-mail from the Provider to this Office dated 2 April 2020.
6. E-mail from the Complainant to this Office dated 16 April 2020.
7. E-mail from the Provider to this Office dated 23 April 2020.
8. E-mail from the Complainant to this Office dated 5 May 2020.

Copies of the above submissions were exchanged between the parties. The Provider, under cover of its e-mail to this Office dated 8 May 2020, advised that it was happy for the matter to proceed to a Legally Binding Decision.

Having considered these additional submissions and all of the submissions and evidence furnished to this Office, I set out below my final determination.

On **25 April 2018**, the Complainant contacted the Provider by telephone to advise that he had noticed storm damage to the interior of his property. In line with the Provider's normal practice a loss adjuster was appointed to deal with this claim. The Complainant was notified of the loss adjuster's appointment and an inspection of the property was arranged.

I note from the documentary evidence before me that the Complainant was unhappy with the initial inspection carried out by the loss adjuster on **4 May 2018**. A second inspection of the property took place on **18 June 2018**, where the roof was inspected and photographs of the roof were taken.

On **4 July 2018** settlement proposals, as set out in detail above, were issued to the Complainant.

The loss adjuster had received claim documentation from the Complainant including a quotation from a roofing contractor which outlined the repairs needed to the property in the amount of €1,645.75.

The loss adjuster had issued settlement proposals to the full value of the Complainant's quotation however, on **13 July 2018** the Complainant contacted the Provider querying whether alternative proposals would be issued as the work was going to cost more to complete.

In my Preliminary Decision, I had indicated that the Provider had stated that there was no clear evidence of any damage to the additional two lead valleys as they had been repaired prior to its second inspection.

The Complainant, in a post Preliminary Decision submission, has pointed out that the above statement was incorrect as repairs had not been completed prior to the second inspection. The Provider had acknowledged this point in its submission to this Office dated **7 August 2019**. However, the Provider has stated that during that second inspection the Complainant did not mention or show the loss adjuster a second or third lead valley.

In my Preliminary Decision I also stated that, the loss adjuster contacted the initial roofing contractor who had provided the first estimate/invoice to confirm that the pricing for the works at the Complainant's property had not increased. The Complainant had changed roofing contractors and as the Provider was unaware of this change it contacted the initial contractor.

The Complainant has, in his post Preliminary Decision submission dated 29 January 2020, stated that he believes that the:

*"...statement as stated within the preliminary decision document that costs had not increased is therefore incorrect and that this has influenced the preliminary decision result".*

*While this statement has not, as the Complainant has suggested, 'influenced' my decision, I believe the statement was factually correct. The Provider was not aware of the change in roofing contractor, therefore when it contacted the initial roofing contractor it was told by that contractor the quote he had originally given had not changed.*

When contact was made with the newly appointed roofing contractor, it advised that three valleys were damaged. A quotation from the newly appointed roofing contractors was issued to the Provider on **19 July 2018** for works carried out at the Complainant's property in the amount of €2,500.00.

In my Preliminary Decision I had stated that the contractor did not provide any photographic evidence of this damage. I went on to note that the 'Step by Step' guide that is issued to insured persons, by the Provider, upon notification of a claim sets out that photographs should be submitted in order to process the claim. The Complainant, in his post Preliminary Decision submission, has stated that this was incorrect:

*"It is incorrectly understood in the preliminary decision that photograph's of the damage caused to the valleys (in line with the step by step guide) were not provided. This is incorrect as same were provided to [the Provider]"*

The submission of photographs showing the storm damage has been a point of dispute for both parties.

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Following the issue of my Preliminary Decision, there was an ongoing exchange regarding the submission of photographic evidence. I have detailed this below.

The Complainant, in his post Preliminary Decision submission dated 29 January 2020, stated that:

*"It is incorrectly understood in the preliminary decision that photograph's of the damage caused to the valleys (in line with the step by step guide) were not provided. This is incorrect as same were provided to [Provider]"*.

The Provider, by way of response, in its post Preliminary Decision submission dated 30 January 2020 stated:

*"As mentioned in previous correspondence we did not receive any photographs of the alleged additional damage but we remain open to review same if [the Complainant] wishes to forward same"*.

The Complainant, in his post Preliminary Decision submission dated 13 February 2020, rejects the statement of the Provider:

*"As previously stated photograph's of the damage caused to the valleys were provided to [Provider]. These photograph's were provided to the loss adjuster as requested.*

*A clear conflict of interest is evident as the loss adjuster works on behalf of the insurance company and therefore has their ([Provider's]) interests/outcomes at heart"*.

At this point as both parties were still in dispute, and this Office did not have sight of the disputed photographs, I wrote directly to the Complainant on **13 March 2020** requesting that he submit the photographs if he wished to do so. My action in doing so does not infer that the Complainant had or had not previously submitted such photographs; I took this action to bring clarity and a resolution to the issue.

On **23 March 2020** photographs where received from the Complainant, which to his belief showed the extent of the damage. These photographs were forwarded by this Office to the Provider for its consideration.

The Provider, in its post Preliminary Decision submission dated 2 April 2020, responded to the photographs submitted as:

*"We referred the photos to the Loss Adjuster who has responded to advise:*

*"The first photograph shows damage to a lead valley, (valley to the left rear of property) which we never disputed. This is what our settlement offer was based on.*

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*Photographs 2 & 3 are of a separate valley – there was/is no damage evident here.”*

*Our position in relation to the claim remains unchanged”*

The remaining post Preliminary Decision submissions mostly consisted of the Complainant and the Provider, disputing the visibility/existence of the damage.

The extensive post Preliminary Decision submissions, including the photographs submitted, have not altered my view, as set out in my Preliminary Decision and this Decision, that I have been provided with no evidence that the Provider wrongfully declined to pay the Complainant’s claim in respect of damage to the roof of his house following a storm.

In relation to the Complainant’s complaint relating to the renewal premium on his policy and the reference to an outstanding claim, I note that the Complainant’s renewal premium in 2019 was €541.18. The Complainant’s premium was €500 in 2018. I note from the documentary evidence before me that the Provider agreed a decrease to €520.18 and it was to issue a refund cheque for €21.00. The Provider further states that when a claim is open at the renewal date the customer does not receive a discount off their renewal premium for having no claims on the policy in the previous period of insurance.

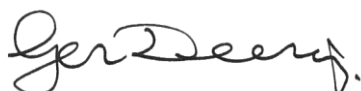
On the basis of the evidence before me, I do not believe that the Provider acted wrongfully or unreasonably. The invoice for €2,500.00 was for work over and above what was evident during the loss adjuster’s two inspections. The Complainant would have been required to follow the correct processes had he wished for the invoice of €2,500.00 to be considered by the Provider; he does not appear to have done so.

Accordingly, for the reasons set out in this Decision, I do not uphold this complaint.

### **Conclusion**

My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is rejected.

**The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.**



**GER DEERING**  
**FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

8 July 2020

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Pursuant to *Section 62 of the Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—

(a) ensures that—

(i) a complainant shall not be identified by name, address or otherwise,

(ii) a provider shall not be identified by name or address,  
and

(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.