



<u>Decision Ref:</u>	2021-0143
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Household Buildings
<u>Conduct(s) complained of:</u>	Rejection of claim - freezing or escape of or overflow of water or oil Claim handling delays or issues Delayed or inadequate communication
<u>Outcome:</u>	Rejected

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

This complaint is brought by the Personal Representative of the estate of a deceased policyholder who held a policy of insurance with the Provider. The Personal Representative/Complainant is the son of the deceased policyholder. The Complainant made a claim under the policy following water damage to the insured property caused by a burst water pipe in **March 2018**. However, the claim was declined due to the property being unoccupied.

The Complainant's Case

The Complainant explains that following the death of his mother near the end of **2016**, he attended the Provider's office in [location] to notify the Provider of his mother's death and to ensure that cover under the policy would remain in place.

The Complainant says that as his mother lived alone in the insured property, he advised the Provider that while nobody was permanently residing in the property, "*it would be attended weekly.*" The Complainant says he was advised that the cover under the policy would continue.

The Complainant says the policy was subsequently renewed by him around the renewal date in **June 2017**.

During the first days of **March 2018**, the Complainant says that due to the extreme cold weather conditions, water pipes burst causing significant water damage. The Complainant says that he discovered the damage when he attended the property on **3 March 2018** with the intention of staying overnight.

The Complainant explains that from the date of his mother's death, he and members of his family regularly occupied the property and on no occasion was the property unattended for a period of more than 7 days.

The Complainant says that the Provider now seeks *"to avoid cover on foot of Policy conditions relative to 'unoccupied farm dwelling house'."* The Complainant says he does not accept this policy condition applied and, even if it were to apply, the Provider was advised of the death of the Complainant's mother and the intended level of occupancy at the time of renewal in **June 2017**. The Complainant states that the Provider also accepted the renewal premium.

The Provider's Case

The Provider says it did not wrongfully refuse the Complainant's claim.

The Provider says it confirmed in writing the requirement of the duty of disclosure and highlighted the significant restrictions to cover within the documentation issued prior to the renewal of the policy. The Provider says the renewal notice issued in advance of the policy's renewal date in **June 2017** confirmed that:

*"You have an ongoing duty to advise us of any changes to the risk such as:
Structural alterations to any buildings; change of use in any building including a change of tenancy or building becoming unoccupied. Policy cover may be avoided in respect of any alteration in risk which is not notified to and accepted by us."*

The Provider says it has no record of the Complainant advising of a change in occupancy, reduced or otherwise.

The Provider says the 'Features and Benefits' document enclosed with the renewal pack states under the heading of 'Summary of Significant Restrictions – Farm House and Contents':

"Unoccupancy

Cover will not apply for removal (or attempted removal) of contents by unauthorised persons, bursting or overflowing of water tanks, apparatus or pipes, or leakage of oil from any oil fired heating installation, when the farm house is left unfurnished or is left without an inhabitant therein for more than 90 days, whether consecutive or not."

The Provider says it is satisfied that the claim was investigated fully by the Loss Adjuster who noted the house was not occupied and therefore, found the Complainant to be in breach of the policy terms and conditions, and not covered for the loss.

The Provider says the house was unoccupied for 90 days or more over the period of insurance and refers to the Loss Adjuster's declination letter dated **24 April 2018**.

In respect the Provider's remarks in its Final Response letter that once probate was finalised, it was the responsibility of the new legal owner to ensure the house was insured in their name, and in respect of a query from the Complainant during a telephone call on **9 May 2017** where he advised that he had been speaking with his solicitor who advised him that when a policyholder dies their policy dies with them, the Provider says that in the event this was advised to the Complainant by the Provider, it would have been done so verbally. The Provider says that the Complainant was inclined to call into its branch rather than discuss the policy over the phone. As such, there is no recording of this conversation.

The Provider submits that for a valid contract of insurance to apply, a person must have an insurable interest in the property they wish to insure, therefore, they must be the legal owner of the property. Upon death, a person's assets become part of their estate and the assets remain legally owned by the estate until probate is complete. The Provider says at this point, the assets become legally owned by the beneficiary of the deceased's estate. It is then the responsibility of the new legal owner to incept an insurance policy on the property they legally own.

The Provider says that its staff are aware of this process and advise customers accordingly when a query is received in relation to a deceased's policy. The Provider says the only way it can continue to provide cover and protect the assets of the late policyholder until probate is finalised is to amend the policy into the estate of the deceased.

The Provider says the Complainant's letter from **September 2018** supports that this information was provided. Within this letter, the Provider says the Complainant states he advised the Provider the matter was still going through probate and requested to put a new policy in place until the beneficiary to the property was registered. The Provider says its staff advised that the only name change required at the time was to amend the name of the policy to 'Estate of'. The Provider says the file note entered on **26 June 2017**, when the renewal instruction was received states "*probate will hopefully conclude in next few months*" and would also leave open the view that a discussion about probate took place on that day.

The Provider says that it is satisfied that a valid policy of insurance was in place during the periods **June 2016 to June 2017** and **June 2017 to June 2018**. The Provider advises that protection was provided to the policyholder and following her passing, the Provider continued to provide protection to the late policyholder's estate.

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As with all insurance policies, the Provider states that cover is provided on the belief that both parties, the policyholder/their estate, and the Provider act within the terms and conditions applying to the policy. The Provider has set out the cover applying to the policy and says that it was limited to the stated sums insured and was subject to any terms, conditions or endorsements as stated on the policy documents.

The Provider explains that an unoccupied property is a higher risk, a fact which the Complainant stated in his correspondence to the Provider in **September 2018**. The Provider says, as a rule, it does not insure unoccupied properties. While certain exceptions may be made, the Provider advises that all cases are subject to the same process:

- Details of the level of occupancy must be provided
- A survey on the property is completed
- The completed survey is referred to the Underwriting Department who advise of the terms, if cover is to be provided
- The policy documents are noted with the agreed terms outside of the standard policy

The Provider advises that where its Underwriting Department has agreed to provide cover for a dwelling declared unoccupied, the level of cover provided is loss or damage as a result of fire, lightning or explosion only.

The Provider says that as a result of the Complainant not advising it of the change in occupancy of the property, wider cover than would otherwise have been available was availed of. The Provider says the Complainant received the same cover as it had provided to his late mother, who was also subject to the 90 day unoccupancy clause.

The Provider explains that it was aware of the passing of the policyholder prior to and at the time of the policy renewal in **June 2017**, and that the late policyholder's status was amended to 'deceased' three days after her death. However, it has no record of any discussion either prior to or around the time of the renewal in **June 2017** regarding the occupancy of the property. The Provider says there is no evidence that the Complainant contacted it in **January 2017** advising of his mother's passing or the change in occupancy of the property.

The Provider advises that the staff member who amended the late policyholder's details no longer works with it. As such, the Provider says it is unable to establish if the change in policyholder status was as a result of an instruction received or local knowledge. The Provider's records show that the policyholder status was amended on the day of the deceased's funeral. It is the Provider's belief that the amendment was made on the basis of local knowledge and not following an instruction received from a family member on the day of the funeral.

The Provider says the Complainant wrote to it on **17 September 2018** to advise that he attended its [location] sales office after the sudden death of his mother in **December 2016**. The reason for the attendance was that: *"I have been advised to do so as I was made aware that 'a policy dies when the policyholder dies' and therefore my concern was to have the property adequately insured as the property was now 'high risk' being unoccupied."* The Provider says it responded on **21 September 2018** to advise that its records indicated that Complainant telephoned the Provider on **9 May 2018** and made this enquiry, referring to a conversation with his solicitor.

The Provider says it has no record of the Complainant calling to its sales office between **December 2016** and **June 2017** to advise of his mother's passing or the change in occupancy of the property.

The Provider notes that it is the duty of the policyholder/Personal Representative to advise of any changes to the risk covered, and had such a discussion, as the Complainant alleges, taken place, the Provider says this would have been recoded and noted on the policy documentation confirming:

- revised details relating to the occupancy of the policy
- any change to cover, terms/conditions, endorsements applying to the cover provided based on the revised occupancy

The Provider says it continued to accept premium payments from the Complainant for the policy as it was not advised of any material changes to the policy and was therefore providing cover on the same terms applying to the policy.

At the time the **June 2017** renewal pack was issued, the Provider says it understood that the property was permanently occupied by a family member. The Provider states that as with unoccupied properties, any other change in occupancy that is, letting, use as a holiday home or partial occupancy, would have to be advised to the Provider and referred to its Underwriting Department. If its Underwriting Department agreed to provide cover, the Provider says this change in occupancy would be noted on the policy documentation issued.

On reviewing the documentation submitted by the Complainant and his Loss Assessor to its Loss Adjuster, the Provider says an electricity bill for the period **28 April 2017** to **30 March 2018** confirmed only 333 kilowatts of electricity was used. Referring to the Commission of Energy Regulation, the Provider says an average residential household in Ireland uses approximately 4,200 kilowatts of electricity dwelling per annum, an average of 14 kilowatts per day. The Provider refers to a further electricity bill from **30 January 2018** to **30 March 2018** where only 14 kilowatts of electricity were noted by the energy provider. The Provider remarks that a modern fridge would use 1 kilowatt of electricity per day. The Provider states that this was also the period in which the loss occurred.

The Provider says that following notification of the claim and subsequent declination, the Complainant submitted dates and names of people who occupied the property over the insured period. The Provider says this is the first record it had of a revised occupancy, of which it has no evidence. The Provider submits that regardless of this evidence, the property still remained unoccupied for more than 90 days in one period of insurance and therefore in breach of the policy terms and conditions.

The Complaint for Adjudication

The complaint is that the Provider wrongfully or unreasonably declined the Complainant's claim under the policy.

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 15 April 2021, 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.

In the absence of additional submissions from the parties, within the period permitted, I set out below my final determination.

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The Policy

The Provider wrote to the Complainant on **26 June 2017** in respect of the renewal of the policy as follows:

"... Please find attached your policy schedule which sets out your sums insured and cover. You should read this in connection with your policy document.

Please check that the details are current and meet your needs. ..."

The 'Renewal Notice' issued in respect of the **June 2017** policy renewal states:

"Duty of Disclosure: *At each renewal you have a duty to advise us of any material fact that could affect your policy. A material fact is one that could affect our assessment or acceptance of any risk, such as: any change to your personal details including occupation and use of any vehicle insured; ...*

Alteration of Risk: *You have an ongoing duty to advise us of any change to the risk such as: ... change of use in any building including a change of tenancy or building becoming unoccupied. ...*

The above is not an exhaustive list of examples of information that could affect your policy, if ever in doubt over whether any information could affect your policy please disclose it."

The 'Features & Benefits' document provided at renewal advises that:

"Summary of Significant Restrictions - Farm House and Contents

Unoccupancy

Cover will not apply for removal (or attempted removal) of contents by unauthorised persons, bursting or overflowing of water tanks, apparatus or pipes, or leakage of oil from any oil fired heating installation, when the farm house is left unfurnished or is left without an inhabitant therein for more than 90 days, whether consecutive or not.

...

Occupancy

The occupancy of the farm house proposed or insured determines our acceptance of the risk and the terms applied to the policy. Various covers on the standard policy are restricted where the occupancy of the house is either Let to Tenants, a Holiday Home or Unoccupied. Failure to notify us of the correct occupancy of your home may invalidate your policy."

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The Complainant's 'Policy Document' states on pages 7 and 8 as follows:

"Special Conditions and Exceptions – Schemes A and B

...

(d) *Unfurnished and Unoccupied Farm Dwellinghouse:*

The insurance against removal (or attempted removal) of Contents by unauthorised persons, or bursting or overflowing of water tanks, apparatus or pipes or, leakage of oil from any fixed oil fired heating installation shall not apply whilst the Farm Dwellinghouse is left unfurnished and further in the event of the said Farm Dwellinghouse being left without an inhabitant therein for more than 90 days whether consecutively or not in any one term of insurance such insurance shall as regards Loss or Damage to the Building and Contents be entirely suspended in respect of any period during which the Farm Dwellinghouse may be unoccupied in excess of the aforesaid 90 days.

The 'General Condition and Exceptions' section on page 33, states that:

"4. Policy Voidable: This Policy shall:

- (a) BE VOID in the event of misrepresentation, misdescription, or non-disclosure, in any material particular.*
- (b) BE AVOIDED with respect to any Section thereof in regard to which there may be any alteration after the commencement of this insurance*
 - (i) by removal, or*
 - (ii) whereby the risk of loss/damage/injury/disease is increased, or*
 - (iii) whereby the Insured's interest ceases (except by will or operation of law) ..."*

The Claim

The Loss Adjuster wrote to the Complainant on **24 April 2018** declining the claim as follows:

"As you are aware, in order to successfully pursue a claim, it must be demonstrated that the loss or damage being claimed for occurred as a result of the operation of an insured peril subject to the Terms and Conditions of the Policy.

This claim has been submitted under the section of the policy covering Escape of Water, resulting from an incident discovered on 3 March 2018.

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... We also note your advices that the house is not occupied on a permanent basis but is occasionally occupied by [the Complainant] and his family at weekends/midweek when he calls to the house to tend the farm. We set out below a relevant extract from the policy wording, in the context of Escape of Water claims:

Special Conditions and Exceptions – Schemes A and B

(d) Unfurnished and Unoccupied Farm Dwelling House

...

In the circumstances and, based on the occupancy patterns you have described, we believe that the property was unoccupied for in excess of 90 days between renewal date on 8 June 2017 and the date of loss.

Accordingly, we must decline liability on behalf of the Insurers. ...”

The Loss Adjuster also prepared a report dated **24 April 2018** in respect of an inspection of the property on **13 March 2018**. I note page 2 of the report states as follows:

“Description of Insured/Business

The policy is in the name of the legal representatives ... and is occasionally occupied by [the Complainant]

[The Complainant] advised that he attends the house on a twice-weekly basis, to tend the adjoining farm and he also states that he normally stays over at least once a week.”

Correspondence

The Complainant wrote to the Provider on **12 September 2018** as follows:

“Please note, I attended your [location] Office after the sudden death of my late mother [name] in December 2016 where I advised one of your staff members of my mother’s death. I had been advised to do so as I was made aware that “a Policy dies when the Policy Holder dies” and therefore my concern was to have the property adequately insured as the property was now at high risk being unoccupied as my mother was the sole occupant.

The matter was still ongoing through probate and I advised your staff member a young lady who unfortunately I did not get her name at the time. I asked her was I due a refund from my late mother’s policy and I as Legal Personal Representative needed to put a new policy in place until such time as the beneficiary to the property was registered and completed.

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I was advised that the only change required was the name on the policy from [the Complainant's mother] to LPR of the Estate of ... and I reiterated "was the current policy sufficient" and was advised again that there was no change necessary to the policy schedule.

...

When the policy was due for renewal in June 2017; I was not asked at any time had circumstances changed or was probate completed and the policy was renewed ..."

In a letter to this Office received on **13 June 2019**, the Complainant explained that:

"Some months subsequent to the death of my late mother I was advised of the necessity of liaising with [the Provider] so as to advise them of my mother's death and ensure that the property had the benefit of all available cover protection whilst the administration of the estate was being addressed.

I visited the offices of [the Provider] and advised them of the death. In the course of my meeting with [the Provider] in January 2017, I specifically advised the staff member concerned that the property was not then continuously occupied. [The Provider] was advised of caretaking/property attendance arrangements then in place including the fact that the property was attended on at least one occasion each week so as to ensure the security of the property.

I was advised that existing cover continued of full force and effect. ..."

In a submission dated **1 July 2020**, the Complainant stated as follows:

*"I note from the **Attendance/Phone Schedule**, there is no record of me attending the [Provider's] Office in February/March 2017 to advise them of my late mother's passing and making the necessary enquiries in relation to the status of the Policy. Again, I reiterate that my grave concern at the time was, to make sure the property was adequately insured as my mother lived alone in the house and the house would now be unoccupied and only occupied by family members a couple of nights per week to attend to the farm ..."*

In a further submission dated **23 July 2020**, the Complainant states that:

*"... when I notified them of my mother's death, I specifically asked "**was the insurance that my late mother had in respect of her property adequate**" as that was my primary concern, I was told "**it was**" and from my view [the Provider] are now stating I did not advise them in relation to the property being unoccupied in the event of mother's death. This property was insured for many years with [the Provider] and they were well aware that my mother was a sole occupant.*

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Furthermore, I do not work in Sales but I would have thought been (sic) an experienced sales person in Insurance [the Provider's staff member] would have asked the relevant questions with a view to making sure the property was adequately insured, I was dealing with the sudden death of my mother and trying to deal with her affairs and I depended on [staff member] to guide me in this instance. ..."

Analysis

In the Complaint Form completed by the Complainant he states that:

"Following the death of my late mother on the [date redacted] December 2016 I attended the [Provider's] office at [location] to advise them of my mother's death and to ensure that the cover offered by the Policy in being would continue ... I advised the Insurance Company that whilst nobody would be permanently living in the dwelling house, it would be attended weekly."

The Provider's evidence is that, while acknowledging the status of the policy was amended to 'deceased', it has no record of the Complainant attending its office during **December 2016** to discuss the policy. It is also the Provider's evidence that this change in status occurred on the date of the original policyholder's funeral.

The Complainant has not stated the date on which he first advised the Provider of the passing of the original policyholder or as to the occupancy status of the house. The Complainant does not dispute that his mother's funeral took place on the date on which the policy was changed.

It seems unlikely that the Complainant would have contacted the Provider on a day such as this to advise the Provider of the passing of his mother and make enquires regarding the insurance policy.

In the Complainant's correspondence outlined above, I note in his letter of **12 September 2018**, he does not identify when he spoke with the Provider's agent regarding the policy, saying it was *"after the sudden death of my late mother [name] in + ... The matter was still ongoing through probate ..."* While it is not clear when probate began, this would suggest the Complainant did not contact the Provider until after the probate process had commenced.

In a letter dated **13 June 2019**, the Complainant wrote that:

"Some months subsequent to the death of my late mother I was advised of the necessity of liaising with [the Provider] so as to advise them of my mother's death ... I visited the offices of [the Provider] and advised them of the death. In the course of my meeting with [the Provider] in January 2017, I specifically advised the staff member concerned that the property was not then continuously occupied. ..."

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I note that the Complainant's statement that *some months subsequent to the death of my late mother* is inconsistent with having a meeting with the Provider in **January 2017**.

A further inconsistency in the Complainant's evidence is apparent from his letter of **1 July 2020**, where he suggests that he attended the Provider's office in **February** or **March 2017**. This gives rise to more ambiguity as the Complainant did not clarify the month he attended the Provider's office, being unclear as to whether it was February or March: "*... there is no record of me attending the [Provider's] Office in February/March 2017 to advise them of my late mother's passing and making the necessary enquiries in relation to the status of the Policy.*"

Shortly after this, in a letter dated **23 July 2020**, the Complainant wrote as follows:

"... This property was insured for many years with [the Provider] and they were well aware that my mother was a sole occupant.

Furthermore, I do not work in Sales but I would have thought been (sic) an experienced sales person in Insurance [the Provider's staff member] would have asked the relevant questions with a view to making sure the property was adequately insured, I was dealing with the sudden death of my mother and trying to deal with her affairs and I depended on [staff member] to guide me in this instance. ..."

This letter would tend to suggest that the Complainant, contrary to his previous statements, may not have advised the Provider in respect of the occupancy of the house and also suggests that the Provider, due to its dealings with his mother, knew the house would be unoccupied following her death.

Going back to **May 2017**, I note that the Complainant telephoned the Provider to discuss the policy on **9 May 2017**. The Complainant explained that he had spoken to his solicitor who advised him that when a policyholder dies, the policy dies with them. In response to this, the Complainant was advised that the Provider would require a letter from his solicitor stating that the Complainant was the executor of his mother's will. The Complainant was asked if he had provided this information to the Provider previously, to which the Complainant responded that he had not. The Complainant was advised that the Provider would require this before the policy could be discussed.

It is the Complainant's evidence that he advised the Provider prior to the date of this call as to the change in the status of the policy and the occupancy of the house. However, the apparent purpose of the call and the Complainant's remarks in respect of when a policyholder dies, do not support the Complainant's position that he had previously spoken with the Provider regarding any amendments to the policy. Considering the questions asked by the Provider's agent, I would expect the Complainant to have advised that he had previously discussed the policy without the need for this information.

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Further to this, as already noted, during the May telephone call the Complainant told the Provider's agent that he had spoken to his solicitors regarding the policy and was advised that a policy died with its policyholder. I note in the Complainant's letter of **12 September 2018**, it is indicated that he attended the Provider's branch following similar advice. While it is not clear when this policy advice was conveyed to the Complainant, I believe the evidence suggests that it was not until **May 2017** that the Complainant first sought to take any steps regarding the policy on foot of this advice. This is not consistent with the Complainant's evidence that he attended the Provider's office or contacted the Provider regarding the policy before **May 2017**.

In terms of the Provider's system notes, the only recorded contacts with the Complainant following the death of the original policyholder are between **19 June** and **26 June 2017** regarding the renewal of the policy. I note that the entry in respect of **26 June 2017**, states: *"... son of the deceased called in, he has authority to deal no material change ..."*

Having considered the evidence, I am not satisfied that the Complainant informed the Provider as to the occupancy status of the house prior to, or at time of, the policy's renewal in **June 2017** or prior to the claim in **March 2018**.

Further to this, there is no evidence to show that the Provider was aware of the occupancy status of the house until the claim in **March 2018**. In light of this, I am not satisfied that the Provider or any of its agents gave the Complainant any assurances regarding the type or appropriateness of cover in place in circumstances where the house was, or would, be unoccupied outside of the information contained in the renewal and policy documentation.

In or around **May/June 2017**, policy renewal documentation issued to the Complainant. In these documents the Provider communicated the need to consider the various renewal/policy documents, to ensure that appropriate cover was in place and highlighted the importance of notifying any changes in risk, expressly citing a change in use/occupancy.

The Features and Benefits document also outlined the level of cover in place in respect of 'Unoccupancy' and 'Occupancy' and the requirement to notify the Provider of the correct occupancy of the house. Further to this, the policy document at special condition (d) expressly identified the limited cover offered by the Provider where a house was unoccupied for a period of greater than 90 days during any one term of insurance, in essence excluding cover in respect of loss or damage to buildings and contents.

Given the information made available to the Complainant at the time of the policy's renewal, I am satisfied that the Complainant was aware, or ought reasonably to have been aware, of the level of cover being provided in respect of the house arising from the level of occupancy.

The Complainant made a claim under the policy for damage caused by a burst water pipe. The evidence is that the house was unoccupied when the damage occurred, being **3 March 2018**. The claim was declined on the basis that the house was unoccupied for more than 90 days during the term of insurance, being **8 June 2017** to **7 June 2018**.

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The policy provides at special conditions (d) that if the house is left without an inhabitant for more than 90 non-consecutive days in any one term of insurance, cover in respect of buildings and contents is suspended in respect of any period during which the house is unoccupied in excess of those 90 days.

In an email from the Complainant to his Loss Assessor dated **8 May 2018**, the Complainant set out a *“Detailed summary of when my mother’s house was occupied”* between **March 2017** and **March 2018**. This appears to have amounted to approximately 155 days. However, this does not align with the insurance term which is **June 2017** to **June 2018**. From the information provided in the Complainant’s email, it appears that in the period **8 June 2017** to **3 March 2018** (that is, the date of loss), the house was occupied or attended for approximately 100 days.

An electricity bill for the house for the period **28 April 2017** to **30 March 2018** has also been furnished. The number of units of kilowatts of electricity used during this period was 333 units. For the period **30 May 2017** to **30 March 2018**, being effectively within the 2017/2018 period of cover, the number of kilowatts of electricity used was 285 units. It is the Provider’s evidence that an average occupied household uses approximately 14 kilowatts of electricity per day.

I note this is not disputed by the Complainant. Taking the number of kilowatts used in respect of the house during the insured term and dividing it by the daily average, this would suggest that the house was occupied or consumed electricity for approximately 20 days during the insured term up to **March 2018**.

There are about 270 days from **8 June 2017** to **3 March 2018**. As noted above, the evidence in this complaint suggests that the house was occupied or attended for around 100 days during this period. It also appears from the Complainant’s email of **8 May 2018** that the house was without an inhabitant or unoccupied for more than 90 days from the first week of **November 2017**, there being evidence of around 56 days of occupancy of, or attendance at, the house to the end of **October 2017**.

Following this, there appears to have been around 42 days of occupancy of, or attendance at, the house in the four month period from **November 2017** up to **3 March 2018**.

I accept that it was not unreasonable for the Provider to form the opinion that the house was without an inhabitant and unoccupied for a period of more than 90 days prior to the damage, the subject of the Complainant’s claim, and that the house was unoccupied on the date the damage occurred. Accordingly, in light of the provisions of the Complainant’s policy, in particular special condition (d), I accept that it was not unreasonable for the Provider to decline the Complainant’s claim as cover in respect of loss or damage to buildings and contents was suspended at the time the loss occurred.

Therefore, for the reasons set out in this Decision, I do not uphold any aspect of 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**

12 May 2021

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.