

The complaint

Mrs D complains that Royal & Sun Alliance Insurance Plc (RSA) has unfairly declined a claim she's made on her buildings insurance policy.

What happened

Mrs D has a building insurance policy branded with the name of a high street financial institution. The policy is underwritten by RSA and, as it's ultimately responsible for this complaint, I've referred to it throughout.

The background of this complaint is well known to the parties so I have only provided a summary here.

- Mrs D noticed water coming up through the floor in a below ground-level bedroom.
- The guttering and downpipes at Mrs D's property run into a chamber that houses sump pumps which pump the water away from the property.
- The chamber is outside of the property, next to the bedroom.
- She checked on the chamber and found it was full of water.
- An engineer inspected the pump and found it had failed.
- This meant water had been allowed to accumulate in the chamber rather than being pumped safely away.
- Mrs D got in contact with RSA to make a claim and it appointed a loss adjuster to deal with it.
- The loss adjuster appointed a specialist to undertake a salt test to establish the type of water that entered the home.
- This test showed the cause of the damage was gradual seepage of rainwater into the property.
- RSA said this wasn't covered by the policy so it declined the claim. Mrs D complained.
- RSA maintained its decision and the claim remained declined.
- Our investigator didn't think the claim was covered under either the buildings or accidental damage cover and was satisfied RSA had acted fairly in declining the claim.
- Mrs D asked an ombudsman to make a decision.

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.

Like many insurance policies, Mrs D's policy doesn't cover every risk that might impact her house. The terms of the policy explain what is, and isn't, covered and these terms form the basis of what the parties can expect from the policy. There may be times when a policy holder believes something *should* be covered under their policy but it simply isn't. It wouldn't be fair or reasonable for me to tell an insurer to pay a claim where there's no cover for it under the policy.

When making a claim on an insurance policy, the onus is on the policyholder to demonstrate the claim is one covered by the policy. If the insurer wishes to rely on an exclusion to decline a claim, the onus is on it to show the exclusion more than likely applies.

When assessing this complaint, I will consider all the evidence and give weight to any professional opinions provided by the parties as to the cause of the damage while also keeping in mind what I consider to be fair and reasonable.

The cause of the damage

RSA instructed a specialist to undertake salt testing and to offer a professional opinion about the source of the water that had entered the property and caused damage. The test showed there were no nitrates or chlorides detected, indicating that the water causing the damage was rainwater seeping into the property. Given the circumstances described above, I can see how “seepage” – which by its nature happens gradually - could have occurred following the failure of the pump, allowing water to enter the property.

Mrs D doesn't agree the damage was caused by seepage and instead believes it was caused by a sudden escape of water following the failure of the pump at a time when she says there was heavy rain. While I acknowledge her opinion here, I haven't seen enough evidence to persuade me it's a more likely cause than that identified by RSA's specialist, who's professional opinion I find to be more persuasive.

Overall, I'm satisfied it was reasonable of RSA to rely on the opinion of its specialist in concluding seepage of rainwater as the likely cause of the damage.

I've then gone on to consider whether this is a risk covered by the policy.

Is seepage covered by the policy?

Within the policy terms, there's a section which defines risks which aren't insured under the policy:

“Any loss, damage, liability, fading, corrosion, rusting, damp, decay, frost, fungus, mould, condensation or deterioration or anything which happens gradually over a period of time”

Because seepage happens gradually over a period of time, I think RSA acted fairly when it relied on this exclusion to decline the claim.

For the sake of thoroughness, I've gone on to look at the accidental damage section to see if there might be cover here. This section provides cover, in some circumstances, for damage that happens suddenly, unexpectedly and hasn't been caused on purpose. But there is an exclusion detailed in the terms which shows what's not covered and this includes:

“Accidental damage caused by the gradual seepage of water into your home...”

Given the cause of the damage, I'm satisfied it was fair for RSA to rely on this exclusion and say there's no cover under this part of the policy.

Summary

I realise Mrs D will be disappointed but, for the reasons I've explained, I'm satisfied RSA has fairly declined the claim and I won't be asking it to do anymore.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 17 September 2021.

Paul Phillips
Ombudsman