

The complaint

Mrs D and Mr D complain about AWP P&C SA's ("AWP") decision to decline their claim under their home emergency insurance.

What happened

Mrs D and Mr D say they noticed a leak coming from their toilet and reported this to AWP. An engineer then attended the same day and, because further parts were required, they attended again over a week later to complete the repairs. During the second visit, the engineer explained there was a hairline crack running through the cistern so a new one would be required. Mrs D and Mr D say they contacted AWP and were informed a new cistern wouldn't be covered under the policy as they had another working toilet. So, Mrs D and Mr D complained.

AWP responded and explained this type of damage would fall under 'maintenance' which isn't covered. AWP accepted they hadn't delivered their expected customer service standards and offered £25 as a gesture of goodwill. Mrs D and Mr D then arranged for a plumber to replace the cistern at a cost of £350.11 but feel AWP should refund this as a cracked cistern isn't part of general household maintenance checks.

Our investigator looked into things for Mrs D and Mr D. She thought AWP should refund Mrs D and Mr D the costs they'd incurred together with 8% simple interest. She also recommended they pay the £25 offered. AWP haven't responded so the matter has come to me for 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.

Having done so, I've decided to uphold the complaint. And, I think the investigator's recommendation here is a fair way to resolve matters.

I think it's important to stress I've made my decision based on the information I have. I can see our investigator has provided AWP with details of the complaint being made against them and allowed them a number of opportunities to provide information. It's important that we get an account from all parties in order to consider the complaint fully. In this case, while AWP haven't provided any information to our service, I'm satisfied we've taken sufficient steps, and given sufficient time, to enable them to respond.

I must be fair to both parties and don't feel it's reasonable, in this case, for Mrs D and Mr D to have to continue waiting for an answer to their complaint.

There's no dispute here that the original leak was an insured event which was covered under the policy terms and conditions. The dispute here relates to the hairline crack in the cistern and whether this should be covered by AWP. I can see, in their complaint response, AWP refer to a section of the policy which says "*This policy does not cover normal day-to-day*

property maintenance such as attention to items which tend to gradually wear over a period of time, or need periodic attention.” Mrs D and Mr D say they’d never noticed a crack in the cistern previously and don’t understand how a crack could’ve happened. Mr D says it might’ve been broken by the engineer when carrying out the repairs. He says, although he can’t be absolutely certain, he does believe this likely caused the damage.

Given that AWP haven’t provided any information, I’ve carefully considered the information I do have to decide what I think is more likely to have happened than not. I haven’t seen any evidence which suggests Mrs D and Mr D reported the cracked cistern to AWP when first making their claim. Had the cistern been cracked, I believe they would’ve reported this at the time. I’m further persuaded that the cistern wasn’t cracked prior to the engineer’s first visit because AWP’s complaint response says the engineer needed to order further parts. I believe this could only have been determined by the engineer if they’d carried out a detailed inspection of the toilet. And, that being the case, I believe, on the balance of probabilities, it’s more likely than not, had the hairline crack been present during the first visit, the engineer would’ve noted this and mentioned this to Mrs D and Mr D. So, I believe this rules out the possibility that the cistern was already cracked prior to the first visit.

Given that the repairs couldn’t be completed during the first visit as further parts were required, I think it’s unlikely the crack occurred between the engineer’s two visits. I haven’t seen any information which suggests the toilet was in a usable condition after the first visit so, that being the case, it’s not something Mrs D and Mr D would’ve used while waiting for the engineer to return. So, I think it’s fair to rule out the possibility the damage occurred in between the two visits. AWP say the damage to the cistern was only mentioned by the engineer when they fitted the new parts during the second visit – this is also consistent with Mrs D and Mr D’s testimony. AWP haven’t provided any information such as claim notes or inspection reports following the engineer’s visits. This might’ve helped establish the condition of the toilet during the visits – or provided evidence to disprove the damage occurred during the second visit. So, given that the engineer was working on the toilet and this appears to be the first time the crack was noticed, I believe this damage was caused by the engineer. I think it’s important to also make the point that, despite several requests, AWP haven’t provided any information to suggest this wasn’t the case.

Mr D has provided invoices which show the costs he incurred in replacing the cistern amount to £350.11 so, given what I’ve said above, AWP should reimburse this to Mrs D and Mr D. I acknowledge AWP’s point about damage to the cistern falling under maintenance, which isn’t covered under the policy. But, I haven’t concluded the £350.11 should be reimbursed under any terms and conditions of the policy – rather, it’s for damage which has been caused by AWP’s engineer while carrying out repairs under the policy. I can see AWP have also offered to pay £25 to Mrs D and Mr D – and I think this is fair and reasonable in the circumstances.

Putting things right

I’ve taken the view that AWP’s engineer caused damage while carrying out repairs. So, AWP should reimburse Mrs D and Mr D the £350.11 they’ve paid for the cistern to be replaced together with 8% interest per year simple from the date they paid, until the date of settlement. AWP should also pay Mrs D and Mr D compensation of £25.

My final decision

My final decision is that I uphold the complaint. AWP P&C SA must:

- Reimburse the £350.11 paid by Mrs D and Mr D for replacing the cistern;

- Pay simple interest on this amount at the rate of 8% a year* from the date they paid until the date of settlement; and
- Pay £25 compensation to Mrs D and Mr D, if they haven't done so already.

* HM Revenue & Customs requires AWP P&C SA to take off tax from this interest. AWP P&C SA must give Mrs D and Mr D a certificate showing how much tax it's taken off if they ask for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D and Mr D to accept or reject my decision before 20 June 2022.

Paviter Dhaddy
Ombudsman