

The complaint

Mrs B complains Tesco Underwriting Limited unfairly declined her home insurance claim.

What happened

In December 2019 Mrs B made a claim on her Tesco home insurance policy. Her conservatory had developed a leak. She felt this had been caused by a recent earthquake. Initially Tesco accepted an earthquake was the cause of damage. A contractor was instructed to repair the conservatory roof. Repairs were delayed by the pandemic. Initial attempts at repairs didn't stop the leaks.

In the summer of 2021 Tesco's contractor inspected the property again. After removing roof tiles they reported an issue with the guttering. They felt this was responsible for continued water ingress and internal damage. The contractor said small sections had been fitted incorrectly. They felt this was a pre-existing issue, not related to the earthquake or the repair works they had carried out. It said stopping the leaks would require a full replacement of the conservatory roof, at a cost of about £24,000.

Tesco declined to cover that, saying the problem with the guttering wasn't the result of an insured event. Instead it was due to faulty workmanship or design – something excluded by Mrs B's policy.

In November 2021 Tesco responded to Mrs B's complaint. It continued to rely on the faulty workmanship, faulty materials or faulty design exclusion to refuse to cover any further work. It offered Mrs B £150 compensation to recognise how long it had taken to reach its decision on the claim.

Mrs B had said she didn't want Tesco's contractor undertaking any further work. So it said it would make a cash settlement of about £1,370 so she could arrange the outstanding works it felt it was liable for. She wasn't satisfied so came to this service. She wants Tesco to fully repair the roof. She says the conservatory had been fine, with no leaks, for 12 years. She feels if the guttering was a problem Tesco's contractors would have realised earlier. And she's unhappy with the unfinished condition the conservatory has been left in for a long time.

In March 2022 our investigator assessed the complaint. She wasn't persuaded the damage was a result of faulty design or workmanship. Instead she felt the earthquake was most likely responsible. So she recommended Tesco repair the roof. She also said it should pay Mrs B £500 to recognise the impact of its failure to do so earlier. Mrs B accepted the assessment, but Tesco didn't.

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, Tesco unfairly declined any further repairs to Mrs B's roof.

As this is an informal service I'm not going to respond here to every point or piece of

evidence Tesco and Mrs B have provided. Instead I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything provided.

Mrs B's policy terms cover her building against loss or damage arising as a result of a range of perils - including earthquakes. It seems to be accepted there was an earthquake in the area around the time of loss. She says the roof didn't leak in 12 or so years existence before the earthquake – despite some major storms.

Tesco initially accepted the damage to the roof as arising as result of the earthquake – so it began repairs. As set out above it later decided the earthquake, at most, simply highlighted an already existing problem – the design of the roof.

So it's now relying on the following exclusion to decline any further work to the roof – '*You are not covered for loss or damage caused by faulty workmanship, faulty materials or faulty design*'.

If an insurer wants to rely on an exclusion, it's required to show it would be fair for it to do so. Having considered everything, I'm not persuaded Tesco's shown enough. On balance I feel earthquake is the most likely main or dominant cause of the damage.

Tesco's said the gutter was of insufficient capacity – faulty design. It's also said the gutter wasn't adequately joined – faulty workmanship.

Tesco's hasn't provided much to support its claim the gutter was of insufficient capacity – other than an opinion from one its contractors on what would be a better size. It hasn't shown, for example, any technical resource to back up that opinion.

In the same vein Tesco made a reference to the building regulations requiring guttering capacity based on pitch and rainfall data. But it hasn't - with reference to the relevant regulations or guidance set out what would have been thought an appropriate size or design for the property at the time of the conservatory's construction.

Mrs B says the guttering didn't leak or cause problems in the 12 years prior to the earthquake - despite various storms. If it was of inadequate capacity, I'd expect it to have been demonstrated sooner. So considering that, and Tesco's failure to support its position on the correct gutter size, I'm not persuaded it was inadequate – or faulty by design.

As I've said Tesco also referred to joins of the guttering being inappropriate – with adapters used rather than welding. Again its failed to provide much, other than a contractor's opinion, to support this position. It hasn't provided something to show, at the time of construction, it would have been considered general good practice to have welded the joins in the conservatory's roof.

Again if this were the main cause I'd expect the problem to have become apparent earlier – rather than following an earthquake. So I'm not persuaded the cause of damage is most likely faulty workmanship.

As stated above I'm not persuaded the roof design or workmanship was inadequate. The roof is reported to have been free of leaks in the 12 years of its lifetime – with the problem only materialising after the earthquake. So it seems most likely the earthquake was the main or dominant cause of damage.

So Tesco's decision to decline to undertake any further work to the roof was unfair. I require it to restart repairs to the roof – ensuring it's free from leaks – and to make good any damage (such as removal of internal cladding) incurred during the earlier repair attempts.

In addition I require Tesco to pay Mrs B £500 in recognition of the impact of its decision to unfairly decline any further work. She's provided videos of the condition of the property and described the impact on her over a long period. It's clearly been inconvenient and distressing for her and her family to reside there whilst the claim has been on hold.

My final decision

For the reasons given above, I require Tesco Underwriting Limited to:

- continue with and complete repairs to Mrs B's conservatory roof to ensure its leak free,
- make good any damage caused by earlier repair attempts and
- pay her £500 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 28 February 2023.

Daniel Martin
Ombudsman