

The complaint

Mrs and Mr C complain that Admiral Insurance Company Limited (“Admiral”) declined a claim under their home insurance policy. When I refer to Admiral I also mean its suppliers.

What happened

Mrs and Mr C have a home insurance policy with Admiral.

In Autumn 2021, Mrs and Mr C noticed some unusual dust in the kitchen and utility area of their house. They asked for some expert advice and in November 2021 a specialist damp survey reported that their home was suffering a large problem with dry rot, which had spread under their property and caused significant damage.

They contacted Admiral and notified it of the situation. They say they were told by Admiral that if the cause of the dry rot was condensation, then it would be a “gradually operating cause” which wouldn’t be covered under the policy. But if the dry rot was caused by a leak, then the damage would be covered.

Their property was found to have a leaking cold water feed pipe and a crack to a soil pipe which were underneath concrete. Mrs and Mr C say that the soil surrounding the pipes was saturated.

Mrs and Mr C proceeded to have the leak stopped and they have had extensive work carried out to remove the dry rotted timber.

When Mrs and Mr C made their claim in February 2022, Admiral inspected the property over a video call and it declined the claim. It said dry rot was excluded under the terms of its policy and referred to this exception:

“10. Gradual causes

‘Any loss or damage caused by anything that happens gradually, including wear and tear, wet and dry rot, or damage due to exposure to sunlight or atmospheric conditions, settlement, mildew, rust or corrosion.’

Mrs and Mr C were unhappy because they say the dry rot was caused by a leaking pipe. They ask for Admiral to pay the whole claim, including the costs of alternative accommodation. They say they had to repeatedly chase Admiral for progress under the claim. In its response, Admiral maintained that their claim wasn’t covered.

They remained unhappy and brought their complaint to this service.

Our investigator looked into the complaint and upheld it. He said he thought Admiral hadn’t acted reasonably in declining the claim under the gradually operating cause exclusion and it should pay for the claim as being covered under the terms and conditions of its policy. He also thought Admiral should pay £250 for Mrs and Mr C’s distress and inconvenience.

Mrs and Mr C agreed with the view but Admiral didn’t. It said the under-floor void of Mrs and

Mr C's house was poorly ventilated, and there seemed to be a lack of a damp-proof course. It thought these were the cause of the dry rot. It asked that the complaint was reviewed by an ombudsman, so it has been passed to me to make a final decision.

I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

Firstly, I think it's useful to say that both parties agree that the property was affected by dry rot, and that there was a water leak from a cold water feed pipe and a soil pipe.

I can see that Admiral's policy includes cover for damage arising from escape of water from pipes. So the leak from the pipes would be a insured event under its policy.

This is important because dry rot generally results from a moisture-rich environment.

But Admiral's surveyor later reported that the under-floor void of the property was poorly ventilated and that the property may not have a damp-proof course. It seems to me that Admiral's position is what Mrs and Mr C were initially told when they contacted Admiral about the problem in November 2021, that if the dry rot was caused by condensation then their claim wouldn't be covered.

It's Mrs and Mr C's view that the leaking pipes were the root cause of the damage, which would mean that their claim would be covered, which is also what they say they were told by Admiral in November 2021.

I've looked at the evidence I've been provided and on balance I'm persuaded that the leaking pipes were probably the significant cause of the dry rot. Given the lack of access to the pipes, they may have been leaking for some significant time, and Mrs and Mr C only became aware of the problem when the dry rot damage spread to where they could see it.

It's also Admiral's position that its policy excludes damaged from dry rot. The exclusion being relied on by Admiral to decline the claim is mentioned above, and I've included it again for ease of reading:

"10. Gradual causes

'Any loss or damage caused by anything that happens gradually, including...dry rot....'

I think it's important to say that Admiral would be entitled to decline the claim if we accept a strict and literal interpretation of the terms of the policy. However, this service's view is that a strict application of the type of gradual causes exclusion included in this policy may often mean that customers aren't treated fairly by their insurers.

We think it's unfair to decline a claim on the basis that the damage occurred gradually if the customer wasn't aware that the damage was occurring – and it couldn't reasonably be said that they ought to have been aware.

I'm satisfied that it's very unlikely that Mrs and Mr C were aware of the damage to their home until Autumn 2021 when they noticed some dust. I also think it's very unlikely that Mrs and Mr C were aware of the water leak, or the crack in the soil pipe, given that both were underneath concrete, under their house floor.

I think it's reasonable to say that it's more likely than not that the water leak created the conditions which allowed the dry rot to develop.

On that basis, I don't think Admiral can reasonably or fairly apply the "Gradual causes" exclusion it has argued it should be able to rely on to decline the claim. To treat Mrs and Mr C fairly, Admiral should reconsider the claim without the application of the "Gradual causes" exclusion.

I think Mrs and Mr C's distress and inconvenience has been significant during this claim. I can see that they had to chase up Admiral and its suppliers repeatedly, and they were being passed between those companies to try and get a decision. Because of this, I think Admiral should pay £250 compensation.

Mrs and Mr C have mentioned that they are also claiming under other sections of cover such as for alternative accommodation when they had to move out of the property. I've not included consideration of this in my decision because I think Mrs and Mr C now need to agree with Admiral what elements of their claim are covered under the terms and conditions of their policy. If the parties disagree about the amount to be settled under the claim, then Mrs and Mr C can make a new complaint to Admiral, and this service, in due course.

Responses to my provisional decision

Mrs and Mr C responded accepting my provisional decision and made a correction to the description of "What happened". I have included this in the appropriate section above and I thank them for taking the time to review the document carefully.

Admiral also responded, saying that the "*leak would have been noticeable*" and referring to a section of the policy wording which says:

"3. Care of your property

You and your family must maintain your property in a good state of repair and take care to prevent any accidents, loss, damage or injury. If loss or damage does happen, you must take action to prevent further loss or damage, if it is safe to do so."

Admiral also reiterated its point about the damp-proof course. It also said Mrs and Mr C hadn't asked it for alternative accommodation.

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.

In its response to my provisional decision, Admiral has introduced the exclusion above, relating to its position that Mrs and Mr C would have been able to notice the leak. By saying this, it's my understanding that Admiral would seek to reject the claim on the basis that Mrs and Mr C hadn't taken adequate care of their property.

Having looked at the evidence, it's my understanding that the damage was hidden from normal view until the unusual dust became apparent. So Mrs and Mr C wouldn't reasonably have been aware of the damage or its extent until they obtained the damp report. I don't think it's fair of Admiral to take this approach for the same reason as I used in my earlier provisional decision above.

Admiral has also said that Mrs and Mr C hadn't contacted it about alternative accommodation. I think it's clear that Mrs and Mr C couldn't have asked for this because Admiral had already rejected their claim, so I'm unsure why Admiral has raised this point.

I don't think Admiral has provided me with evidence that changes my final decision or reasoning.

My final decision

For the reasons set out above, my final decision is that I uphold this complaint. I direct Admiral Insurance Company Limited to:

- Reconsider Mrs and Mr C's claim without the application of the "Gradual causes" (dry rot) exclusion or the "Care of your property" policy condition;
- Pay 8% simple interest on any settlement figure paid to Mrs and Mr C. That interest should be calculated from the date Mrs and Mr C paid their contractor to the date they receive the settlement from Admiral;
- Pay Mrs and Mr C £250 for their distress and inconvenience.

Admiral Insurance Company Limited must pay the amount within 28 days of the date on which we tell it Mrs and Mr C accepts my final decision. If it pays later than this, it must also pay interest on the amount from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C to accept or reject my decision before 3 February 2023.

Richard Sowden
Ombudsman