

The complaint

Mrs D is unhappy that AA Underwriting Insurance Company Limited (AA) declined a claim she made under her home insurance policy.

What happened

Mrs D has explained that on 31 January 2022, a water storage tank in the loft of her property failed. She said that water coming from the failed tank caused damage to a bedroom, and the dining room below it. Because her property was damaged, Mrs D contacted her home insurer, AA, to make a claim under her policy.

AA considered Mrs D's claim and declined it. AA said that a surveyor it appointed had attended Mrs D's property and noted that the bedroom ceiling had bowed and stained, and the carpet and wardrobe had suffered from damage. With the water spreading into the dining area on the floor below. AA accepted the damage was caused due to a faulty water tank. But it said there was evidence to show the damage wasn't caused by a one-off event. But had been going on for a period of time, with the damage happening gradually.

AA said the policy specifically excluded damage caused over a period of time. So, the policy didn't respond.

Mrs D didn't feel this was fair. And complained to AA. AA maintained its position on the matter. As Mrs D remained dissatisfied, she referred her complaint to this service for an independent review.

Our investigator considered this complaint and thought it should be upheld. They said that AA hadn't provided a persuasive narrative to show the damage had happened over a period of time. So, our investigator considered that AA should reimburse Mrs D for the repairs she had had to make to her property due to the escape of water, plus 8% interest on this amount.

AA didn't agree. It considered that it had provided sufficient evidence to show the exclusion around gradual damage applied in Mrs D's case.

As AA didn't agree this complaint has been referred to me to decide.

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 this complaint. I've explained why below.

When considering complaints such as this, I need to consider the relevant law, rules and industry guidelines. The relevant rules, set up by the Financial Conduct Authority, say that an insurer must deal with a claim promptly and fairly, and not unreasonably decline it. So,

I've thought about whether AA acted in line with these requirements, when it declined to settle Mrs D's claim.

I've also reviewed Mrs D's policy documentation. And I can see she has buildings and contents insurance cover. As is common with policies of this nature, the policy provides cover for damage caused by particular events listed in the policy. For example, damage caused by an escape of water. It is for the policyholder to show that their loss is caused by one of the events listed in the policy.

Mrs D has said there was an escape of water at her home, which caused damage. It's my understanding that this has been accepted as evidenced – there was water damage to the home, as a result of water escaping from a faulty tank.

As it has been shown there was an escape of water, the insurer, in this case AA, need to settle the claim – unless it has shown that an exclusion in the policy applies. In this instance, AA has said that an exclusion does apply. This being an exclusion around damage that has happened gradually. I've reviewed the exclusion in the policy, which is detailed below:

“General exceptions

This policy does not insure the following:

- 1. Loss or damage arising from gradually operating causes including deterioration, wear and tear, corrosion, rot or similar causes.”*

For AA to rely on this exclusion it needs to evidence that it applies in this case. If it hasn't evidenced it, then it needs to settle the claim.

So, I've thought about whether AA has acted fairly and reasonably in saying it has evidenced that the above exclusion, relating to gradual damage applies here. And I don't think it has. I say this because I don't think it has provided a persuasive body of information to evidence its position that the damage had been caused over a period of time, rather than as a result of a one-off escape of water.

AA appointed a surveyor to attend Mr D's property. As a surveyor attended the address, I'd expect its report to detail the damage, as well as why the damage observed was something the surveyor could tell had been happened gradually. Rather than due to a one-off escape of water a few weeks earlier. But I've seen a copy of the report completed as part of this visit. And it doesn't provide any explanation as to the why the observed problems were something that had been happening gradually, rather than on 31 January 2022.

AA has provided a number of photographs, which it says do evidence that the damage was gradual. It has referred to the photographs showing water staining, mould and cracking of plaster. But, the escape of water happened on 31 January 2022, and the surveyor visited the property some weeks after this. So, I have to accept its possible some water staining, mould and cracking could appear in the intervening period. And no persuasive narrative has been provided by AA accompanying those photos, detailing why that wasn't the case, and the situation would have been present and visible to Mrs D before 31 January 2022.

Given I'm not persuaded that AA has evidenced that it's more likely than not the damage occurred over a period of time, I don't think it's fair for AA to rely on the gradual damage exclusion to decline Mrs D's claim.

Putting things right

It therefore follows that AA should deal with Mrs D's claim, in line with the remaining terms and conditions of her policy. Mrs D has said she has had the repair work completed now. So, AA will need to reimburse Mrs D for the repair work completed to remedy the escape of water damage, on receipt of evidence of this, and in line with the remaining terms and conditions of the policy.

Because Mrs D would have been without the funds, after paying for the repair work herself, I agree with our investigator that 8% simple interest should be provided on the funds spent to complete repair work needed to remedy the escape of water damage. I consider this 8% should be provided from the date Mrs D made payment for the work, to the date of settlement, less any tax properly deductible.

If HM Revenue & Customs requires AA to deduct tax from this interest, AA should give Mrs D a certificate showing how much tax its deducted, if they ask for one.

My final decision

Given the above, my final decision is that I uphold this complaint. I require AA Underwriting Insurance Company Limited to carry out the actions noted in the 'putting things right' section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 30 March 2023.

Rachel Woods
Ombudsman