

The complaint

Miss R complains about AA Underwriting Insurance Company Limited's decision to decline a claim for a damaged sofa.

What happened

The background to this complaint is well known to both parties, so I'll provide only a brief summary here.

Miss R has home insurance underwritten by AA which covers the contents of her home.

She made a claim after she says her sofa was damaged when she accidentally spilled hair dye onto it. Miss R said this caused the material to blister and when she tried to gently wipe the hair dye off, the material split or peeled in places.

AA declined the claim. They told Miss R the damage had likely been caused by her attempts to clean the sofa and they referred her to an exclusion in the policy terms which say they won't cover damage caused by any cleaning process.

Miss R made a complaint to AA. They maintained their decision to decline the claim was correct. They again referred to the policy exclusion. And also told Miss R the onus was on her to substantiate her claim, which they felt she had not done.

Miss R wasn't happy with this and brought her complaint to us. She wants AA to repair or replace her damaged sofa.

Our investigator looked into it and didn't think AA had treated Miss R fairly by declining the claim on the basis that her cleaning had caused the damage. He asked AA to repair or replace the damaged sofa in line with the policy terms.

AA disagreed and so this case has been referred to me for a final 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.

There's no dispute here about what the policy says. The terms include an exclusion which says that AA won't cover damage caused by cleaning.

I suspect AA included that policy term primarily to cover situations in which a policyholder damages an item by cleaning it with the wrong product, or too regularly, or too abrasively, for example. And so, causes the damage themselves.

In that kind of case, the primary or sole cause of the damage would be the actions of the policyholder when carrying out the cleaning.

It certainly wouldn't be an unreasonable or "stretched" reading of the policy terms to interpret

the exclusion in that way. So, policyholders might reasonably feel they *were* covered in situations like the one Miss R describes – where they were cleaning an item in order to mitigate damage or prevent further damage arising from an accident or event which itself had nothing to do with cleaning.

I don't think AA are trying to suggest that there was no incident with the hair dye and Miss R caused the damage by proactively cleaning the sofa – and then lied about the circumstances when she made the claim.

If they are, they didn't tell Miss R that was the reason for declining the claim. And in any case, I'm satisfied they don't have the evidence to justify the allegation that the claim is fraudulent and/or that Miss R is intentionally trying to deceive them about the cause of the damage.

In their final response to Miss R's complaint, AA quote the cleaning exclusion – as the reason to decline the claim. But also go on to say the onus is on Miss R to substantiate her loss and to show it was caused by an insured event. And they say she hasn't substantiated her claim.

That's a somewhat confused position. Either Miss R's claim has not been substantiated, in which case it's irrelevant whether an exclusion applies, or it's substantiated but excluded.

Leaving that aside, I'm satisfied Miss R has met the requirement to substantiate her claim. She's provided photographs of the damaged sofa – which show she has suffered a loss. And she's provided an explanation of how that damage was caused by an insured event – in this case an accident with the hair dye, which apparently contains bleach.

So, for me, the onus is then on AA to either prove that the damage was not caused by the event Miss R described or to demonstrate that an exclusion applies.

As I say, I don't think the exclusion applies – at least not in the way AA appear to be suggesting. It's reasonable to assume the exclusion would apply only if the cleaning were the primary cause of the damage rather than a perfectly reasonable and justified attempt to mitigate damage caused by an accident.

And if AA wanted to suggest that the damage – as evidenced in the photographs – did not happen and/or could not have happened as Miss R suggests, then I'd want to see expert evidence about how the material from which the sofa is made reacts to the chemicals contained in the hair dye.

In short, if AA wanted to decline the claim because they didn't believe Miss R, they should have said so – and they should have the evidence or information to back up the serious allegation that the claim is fraudulent. And in fact, they didn't say so – and they haven't produced any evidence or information to back up the idea that the damage wasn't caused by the event Miss R describes.

Putting things right

I'm satisfied Miss R has substantiated her claim as far as she's required to do – and AA have no evidential justification for saying the damage wasn't caused by the spillage. And I'm satisfied the cleaning exclusion can't reasonably be applied here. So, I'm upholding Miss R's complaint.

I agree with our investigator that AA should now settle the claim in line with the policy terms and conditions. Broadly, they should repair or replace the damaged sofa or pay for the repair

or replacement of the sofa.

My final decision

For the reasons set out above, I uphold Miss R's complaint.

AA Underwriting Insurance Company Limited must repair or replace Miss R's damaged sofa – or pay for the repairs or replacement - in line with the policy terms and conditions.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 5 July 2023.

Neil Marshall
Ombudsman