

The complaint

Mr and Mrs P complain that Covea Insurance plc (Covea) added a retrospective condition onto their home insurance policy and declined their claim for accidental damage.

What happened

Mr and Mrs P took out buildings and contents insurance with Covea through a broker in 2019. The policy was renewed in 2020 and 2021.

In July 2022 there was a water leak from a tap and hose on the flat roof which led to an ingress of water into the kitchen. Covea's surveyor attended to inspect the damage and noted that the leak had occurred on a flat, living roof to the rear extension. As Mr and Mrs P hadn't declared a flat or living roof, Covea applied a retrospective endorsement to the policy and declined the claim.

Mr and Mrs P complained. They accepted that part of the roof was flat but said that they had answered all questions correctly when they took out the policy in 2019. They said that the majority of the roof was tile and they hadn't been asked for a percentage of tiled roof or if any of the roof was flat. They said that the living roof wasn't installed until 2020 and that they didn't know they needed to inform Covea.

Covea didn't uphold the complaint. It said that the living roof should have been declared as "*living (eco) – 20-50%*". It referred to its policy conditions and said that had it been made aware of the correct roof construction at the start of the policy, it would still have offered cover but with an endorsement relating to the living roof. It said that it was fair to apply the endorsement retrospectively and decline the claim.

Mr and Mrs P brought their complaint to this service. Our investigator didn't think Covea had acted fairly. She concluded that it hadn't been made clear to Mr and Mrs P at either inception or renewal that they had to declare a proportion of their roof as flat or living. She thought Covea should reopen the claim and consider it in line with the remaining terms and conditions of the policy - and pay Mr and Mrs P £300 compensation for distress and inconvenience. Covea didn't agree and asked for an ombudsman's 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.

Covea says that Mr and Mrs P didn't tell it that part of the roof was flat or that it was living, and had it known this it would have offered cover on different terms. There are two issues here, the flat roof and the living roof, and I've dealt with them separately.

Flat roof

Mr and Mrs P accept that a single storey extension at the rear of the property had a flat roof and that this was present in 2019 when the policy started. I've therefore looked at what

information was requested from Mr and Mrs P, and what answers they gave, when they first took out the policy in September 2019.

The 2019 quotation form was completed by Mr and Mrs P via a broker. There are no questions specifically relating to whether there is a pitched or flat roof. The quotation form asks if the roof is tile, slate or other. There are no questions about a mixture of different roof types or percentages.

Covea says that it would have expected Mr and Mrs P to answer this question as “*other*” and to use the free format box to note any different types of roof construction. However, if Covea wanted this information, or to know about any flat roof, I would have expected it to have made this clear - and it didn't. Mr and Mrs P say that most of their roof is tile and I think Mr and Mrs P answered this question as accurately as they could in response to the question asked. I don't think it fair to expect Mr and Mrs P to provide information about a flat roof without being asked.

Covea sent a Statement of Fact to Mr and Mrs P at inception and when the policy renewed each year. The statement reflected the answers given in the quotation form. I've looked at the Statement of Fact at inception and for 2021/22 which is the year in which the claim was made. It states that the property “*is roofed with tile*”. There is no mention of whether the roof is pitched or flat – and I haven't seen anything in the policy booklet telling Mr and Mrs P that they need to declare that a percentage of the roof is flat.

As Mr and Mrs P weren't asked at any stage about a flat roof, or a combination of roof constructions, I don't think it fair of Covea to say that Mr and Mrs P should have declared it.

Living roof

It's quite common for an insurer to include a condition in its policy requiring a policyholder to let it know of any changes after the policy has started. If an insurer is going to rely on this, I'd expect it to highlight this at the start of the policy and make sure it clearly sets out the changes it wants to know about. If it doesn't, it may not be fair for an insurer to take action if a policyholder fails to tell it of a change in circumstance.

Mr and Mrs P say that the living roof was installed in 2020 after the policy started – so the question for me is whether Mr and Mrs P should have notified Covea about the living roof. Covea says it should have been told of any changes involving a change of risk. It says that as the roof construction formed part of the statement of fact, it would have been evident to Mr and Mrs P that they should have notified Covea about a new living roof.

I've looked carefully at the policy documents from inception and at each renewal, including the policy booklet, but can't see anywhere that Mr and Mrs P were advised to notify Covea if they instal a living roof. The Statement of Fact asks policyholders to check that the information is correct and to notify Covea if there is a material change of circumstance. They are referred to the General Conditions in the policy booklet for further guidance. I've looked at the General Conditions and these say that Covea should be notified of “*any changes in circumstances which may increase the possibility or extent of loss, damage or legal liability covered by this policy*”. It then provides a number of examples of what should be notified. There is no mention of changes to roof construction or specifically to flat or living roofs and I don't think it reasonable to assume that policyholders would know that this might increase the possibility of loss or damage. Whilst the booklet doesn't list all changes that are notifiable, I think it would be reasonable to expect it to list changes to the construction of the roof if this were to affect cover.

Covea also says that the living roof should have been recorded as “*living (Eco) – 20-50%*”

rather than as “*tile*”. I don’t know where this reference is taken from as it wasn’t an option at inception or renewal – and doesn’t appear in the policy booklet. I can’t see that it was drawn to Mr and Mrs P’s attention and therefore don’t think it fair to say now that this is how they should have recorded the construction of their roof.

Covea have retrospectively applied an endorsement from inception and declined the claim. Whilst I think that the endorsement is poorly worded as it refers to a building warranty which never existed, it effectively allows Covea to decline any claim for loss or damage arising from ingress of water from the roof area. Such an endorsement might be reasonable now that Covea is aware of the living roof, but I don’t think it fair to impose it retrospectively. Therefore, on balance I don’t think Covea has acted reasonably and I’m upholding this complaint. I require Covea to consider the claim under the terms and conditions of the policy before the retrospective endorsement was added.

As I don’t think Covea treated Mr and Mrs P fairly, I’ve gone on to consider compensation for distress and inconvenience. A significant amount of time was spent by Mr and Mrs P dealing with the claim, and having their claim unfairly declined added to the distress caused by the incident itself. I agree with our investigator that a sum of £300 compensation is fair.

My final decision

My final decision is that I uphold this complaint and require Covea Insurance plc to:

- consider the claim under the terms and conditions of the policy before the retrospective endorsement was applied; and
- pay Mr and Mrs P £300 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr P and Mrs P to accept or reject my decision before 20 October 2023.

Elizabeth Middleton
Ombudsman