

The complaint

Mr S complains that Ageas Insurance Limited declined part of a claim he made on his buildings insurance policy for a drainage problem.

What happened

As the circumstances aren't in dispute, I'll summarise the main points:

- Mr S got in touch with a drainage company, who I'll call A, after discovering a blocked drain at his home. A said there were damaged joints and inadequate fall on the line. Mr S agreed for A to carry out the work to put these things right at a cost of around £6,000. He then made a claim with Ageas.
- Ageas accepted the claim for the joints. It said its contractor could have carried those repairs out for around £800 and based settlement on that figure before deduction of the excess. It agreed repairs were required to put right the inadequate fall, but it didn't think they were covered by the policy.
- Our investigator thought the complaint should be upheld. He said the policy covered accidental breakage of underground pipes and that included the functional problem caused by the inadequate fall. To put things right, he asked Ageas to cover all of the damage at its own cost.
- Mr S agreed with this. Ageas didn't. In summary, it said:
 - The policy covers 'accidental damage', which means damage must be caused by something sudden.
 - The joints had suffered accidental damage. But the problem with inadequate fall was caused by its design – which isn't covered by the policy. Whichever company installed the pipework should be responsible for this problem.
 - Much of the pipework replaced by A wasn't damaged at all.
- Our investigator wasn't persuaded to change his mind, so the complaint has been passed to me.

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.

Much of this dispute turns on the policy wording and how it should be interpreted. So that's where I'll start.

The policy says Ageas may use its own partners to carry out repair, rebuild or replacement. The consumer is free to use someone else, but the cost will be limited to what Ageas' partner would charge. In the context of this complaint, it means Ageas won't pay Mr S more than it would cost its own drainage contractor to carry out the work.

In this case, the work had been carried out before Ageas had a chance to appoint its own contractor. I haven't seen any evidence to suggest the problem was so urgent that Mr S couldn't reasonably have contacted Ageas before having the work carried out – or that he did so and it didn't act quickly enough. So I'm satisfied it's fair for Ageas to apply this policy term and limit the claim cost to the rates charged by its own contractor.

Ageas has accepted the claim for the damaged joints and offered to settle as its contractor's rates, so I don't think this point requires further consideration. What remains in dispute is the rest of the claim – the problem with inadequate fall of the pipework – which Ageas declined.

Ageas has referenced the 'accidental damage' section of the policy. I agree that's limited to situations where the damage is "caused by something sudden", amongst other things. Ageas argues that only the joint damage meets this definition. But I don't think I need to decide that.

As the investigator pointed out, another section of the policy is for 'underground pipes and drains'. I think that's the most relevant section in the circumstances of this claim. This section says it covers the cost of repairing underground pipes and drains if they're 'accidentally broken'. It doesn't define this phrase or otherwise stipulate that for damage to be covered under this section it must be caused by something sudden.

Where a phrase in the policy is undefined, it should take its ordinary, everyday meaning. In my view, 'accidentally' means something unforeseen and unintended. And 'broken' means physically damaged and/or not functioning as it ought to.

Ageas has accepted the inadequate fall was unforeseen and unintended, so the problem was 'accidental'. And A has been clear that it replaced the pipework because it had inadequate fall and this had led to the blockage. As the drain wasn't functioning properly as a result of the poor fall, it was 'broken'.

Overall I'm satisfied this problem amounts to 'accidental breakage'. Ageas has said that the repairs carried out by A 'may have been the best course of action due to the poor fall'. So it seems to accept that replacing the length of pipework was a suitable remedy to the problem.

After our investigator shared his findings, Ageas raised a new reason for declining the claim – it said the inadequate fall was a result of poor design and this wasn't covered by the policy. Ageas ought to have raised all relevant reasons when it answered the complaint. Nonetheless, I've considered what it's said.

The part of the policy it's referred to seems to be a non-contractual summary of some key terms, rather than the actual terms. In a later section of the policy, which lists all the exclusions that apply throughout the contract, it *doesn't* mention poor design or similar. Poor design is excluded from specific sections of the policy, such as subsidence. But the underground pipes section doesn't contain such an exclusion. So I'm not persuaded the term raised by Ageas is relevant to this claim.

But even if it was relevant, I'm not satisfied Ageas has done enough to show the problem is the result of poor design. All it's offered to support that opinion is its contractor's single sentence: "we have attributed the reasons for the water holding is due to the design/installation of the system". I don't find this persuasive evidence of 'poor design'. For example, there's nothing to suggest when the pipework was installed, what the relevant design standards of the time were or how they haven't been met.

Taking everything into account, I'm satisfied it was unfair for Ageas to decline part of the claim. To put things right, it should accept the remainder of the claim. It's entitled to limit the

amount it pays to its own cost of carrying out the work and take it into account the remaining terms and conditions of the policy, such as the excess and any relevant policy limits.

My final decision

I uphold this complaint.

I require Ageas Insurance Limited to accept the remainder of the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 July 2023.

James Neville
Ombudsman