

## **The complaint**

Mr and Mrs A complain that Accredited Insurance (Europe) Ltd declined their claim on their home insurance policy.

## **What happened**

Mr and Mrs A had home insurance that was underwritten by Accredited. In November 2022 they made a claim after a routine check of their septic tank revealed a collapsed wall that needed fixing.

Accredited assessed the claim but declined it. It said the damage to the septic tank had been caused by tree roots pushing against the wall. And as this was a gradually operating cause it was excluded from policy cover. It also said as the policy had only incepted a couple of months before the claim, the damage likely happened before the policy was in place, so it was for any previous insurer to deal with.

Mr and Mrs A didn't agree this was fair. They said they couldn't have known about the tree roots as the damage happened underground. And previous inspections of the tank had shown no issues. So they said they'd claimed as soon as they'd been made aware of the problem.

They made a complaint but Accredited didn't uphold it. So they brought it to this service.

Our investigator recommended the complaint be upheld. She said while tree roots growing into the wall would have happened gradually, this service thinks an insurer should take into account whether the customer could have reasonably known about the cause of the damage. And here, she didn't think Mr and Mrs A could have. She also said they raised a claim as soon as they discovered it, so it wasn't fair to decline it due to it being pre-inception. She thought Accredited should reconsider the claim without applying the exclusions for a gradually operating cause or an issue that began pre-inception.

Mr and Mrs A accepted our investigator's outcome, however Accredited didn't. It said that there was a large tree near to the septic tank, so it should have been clear to Mr and Mrs A that this may cause problems. And it said it would unlikely be able to carry out a long lasting repair anyway, as the issue would reoccur. It asked for the complaint to be reviewed by an ombudsman.

## **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.

Accredited has said that as the cause of the damage happened gradually, it would be excluded under the policy. There is no dispute that tree roots growing into the side of the wall of the tank would have happened gradually. However I need to decide if Accredited has acted fairly by declining Mr and Mrs A's claim in the circumstances.

Mr and Mrs A have explained that they get their septic tank emptied by a professional around every three to five years. They say they checked the tank in 2020 and it didn't need emptying at this time. And at this stage there was no sign of any issues with it. It wasn't until the tank was inspected again in October 2022 when it was emptied that the problem became evident.

As the septic tank is underground, while the damage had been happening gradually, this wouldn't have been apparent to Mr and Mrs A. And that means they wouldn't have been able to do anything to prevent the cause or mitigate their losses. Therefore I don't think it's fair for Accredited to rely on the exclusion in the circumstances.

Accredited has said that as there was a large tree close to where the septic tank was positioned, they should have known the roots may cause a problem. However I don't agree this is a reasonable expectation. The septic tank had been in place for a long time and Mr and Mrs A have said the last empty was in 2017. At this time, and for all the time before this, there had been no issue with the tank. I therefore wouldn't expect Mr and Mrs A to have considered that damage had developed in 2022.

Further, I don't think it's a reasonable expectation of a lay consumer to consider the impact of the proximity of vegetation from the tank. Or to reasonably expect them to predict that this may cause problems.

For these reasons I don't think Accredited has acted fairly by relying on the exclusion for a gradually operating cause to decline this claim.

I've also considered what Accredited has said about the damage happening before the policy with it began. However as Mr and Mrs A discovered the damage for the first time when the policy had already begun and took action promptly when they did, I think it reasonable that Accredited deal with the claim under the current policy. As it is an ongoing issue and was discovered during its policy term.

Based on this, I agree with our investigator that Accredited should reconsider Mr and Mrs A's claim under the policy, without applying the exclusion for a gradually operating cause or declining due to pre-inception damage.

### **My final decision**

For the reasons I've given, I uphold Mr and Mrs A's complaint and direct Accredited Insurance (Europe) Ltd to reconsider their claim for damage to their septic tank, without applying the exclusion for a gradually operating cause, in line with the remaining policy terms and conditions.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Mrs A to accept or reject my decision before 1 September 2023.

Sophie Goodyear  
**Ombudsman**