

## **The complaint**

Miss D complains about Esure Insurance Limited (Esure) who declined her claim under her home insurance policy.

## **What happened**

Miss D said that around two years after she had moved into the property, she noticed a damp patch in her home. She contacted a contractor who made some repairs by resealing the bath and installing a new shower door. This she believed resolved the issue.

Sometime later, Miss D contacted Esure and made a claim as she noted that the area had become worse. It sent a surveyor to assess the damage. He concluded that the damage was due to poor workmanship and wear and tear. And as they were specific exclusions to her policy, Esure declined her claim.

Miss D then contacted an independent contractor. After a previous initial trace and access that he conducted, he removed her bath and noticed that the floorboards had rotted. He concluded that the damage caused to her bathroom was due to a burst pipe, that had caused a leak. He was unable to re-install the bath due to the damage to the floorboards.

Miss D contacted Esure to make a complaint. She believed that its surveyor had erroneously declined the claim, given the conclusion of her contractor, that the damage was caused by a leak. Further, that her and her family had been severely inconvenienced as they had been without bathing facilities for several weeks. In its final response, Esure gave Miss D her referral rights but didn't address her complaint.

One of our investigators considered the complaint and thought it should be upheld. He said that he was more persuaded by Miss D's contractor's report. In that, he felt that the report was more detailed than that of Esure's surveyor. It outlined the cause of damage as a burst pipe, which Esure's surveyor didn't pick up upon. He said that Esure's surveyor had mentioned that the damage was caused due to failed sealant, but there was no evidence to support this. He said Esure's surveyor mentioned poor workmanship as a further reason to decline, without explaining what amounted to poor workmanship. So, he recommended that Esure accept the claim and pay Miss D £600 compensation for the trouble and upset caused.

Miss D accepted the view, Esure did not. It said that it believed that its surveyor's report was more persuasive than Miss D's contractor's report. It relied upon a senior technician who had commented on the report who concluded that the damaged caused wasn't due to a one-off leak. And it had been a leak that had occurred overtime, which wasn't covered under the policy. So, it asked for a decision from 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.

Having done so, I will uphold this complaint, for much the same reasons as our investigator. And I will explain why I think this is fair.

I've considered all the evidence and comments made by both parties. And having done so, I think the main issues of this complaint are whether Esure was fair to decline the claim under the policy exclusions, namely poor workmanship and wear and tear.

Miss D said that Esure's surveyor was wrong to conclude that the damage caused was due to poor workmanship and wear and tear.

Esure's surveyor had also concluded that the cause of the damage was as a result of failed sealant/grout. And the source of the leak was from the shower.

So, Miss D instructed her own contractor who wrote a report and concluded that the cause of the damage was due to a burst pipe under the bath. And when he removed the bath, he found that the floor and joists had rotted, again due to the leak.

I have reviewed both reports, the accompanying recordings made by Esure's surveyor and the photos of the area.

Esure's surveyor's report states that the damage was due to failed sealant/grout. And appears to suggest that the failure was in two areas first the bath and second the shower. Yet, there is no explanation or further information about how, when, and why the sealant failed. There is no information about damage caused by the shower, which I would've expected as the report states that the source of the leak was the shower.

The accompanying photographs of the damage don't appear to support that the shower was the source of the leak. Nor do they show that it was failed sealant that caused the damage.

Further, there is no detail within the recordings made on site. There is mention that a contractor had attended and removed a bath panel and noticed loose pipes. But no mention from the surveyor whether he carried out an inspection of the pipes. No mention of any investigations he carried out to see whether the 'loose pipes' were actually a burst pipe, as Miss D's contractor later found.

Miss D's contractor initially found that under the bath was a burst pipe, which he made safe. After he had removed the bath, he found that the cause of the damage was a leak, that had come from the burst pipe. He also said that as the floor was tiled, it wouldn't have been possible for Miss D to have noticed the leak.

I've next considered the issue of poor workmanship. It is clear that Miss D's contractor hasn't concluded that this contributed to the damage. Although it's right that Esure's surveyor mentioned that poor workmanship contributed to the damage caused, there is no explanation as to what evidence or investigations he undertook, that supported his conclusion that poor workmanship was partly to blame. And I don't think it's enough to simply mention poor workmanship, without substantiating it.

Overall, I found Esure's surveyor's recordings, and the report lacking in detail and not as thorough as I would've expected. Conversely, I found that Miss D's contractor had carried

out a more thorough inspection, given that he initially located and made safe the burst pipe (which doesn't appear to have been checked/investigated by Esure) and then removed the bath, for a more intensive inspection.

I acknowledge that Esure believe that Miss D ought to have been aware of the damage much sooner and perhaps mitigate her loss. It relied upon its senior technician who said: *'The emailed images show the subfloor is heavy rotten and walls are heavily saturated. I find it doubtful ph would have been unaware of the leak for this long, if t & a was done sooner the damage would not have been as severe.'* I've looked into this further and I don't agree, so I'll explain why.

Esure was aware (and Miss D confirms) that the bathroom was fully tiled (floor and walls). Miss D's contractor noted that the location of the bathroom was on the ground floor and as it was fully tiled, it would've been impossible for Miss D to have noticed anything untoward. Certainly, Esure's surveyor didn't notice the issue with the pipes and Miss D's contractor only found the source of the leak once the bath had been removed.

Further, although Miss D explained that she had, a patch issue in the past, she believed it had been resolved with the repairs that were carried out. Consequently, I don't think Esure where fair or reasonable to have declined Miss D's claim.

In addition, I've considered the impact of Esure's error on Miss D. She explained that the whole incident has caused considerable distress, upset and worry. She said that she had been without bathing facilities for several months, which has caused significant disruption for her and her young family. I'm satisfied that had Esure carried out a more thorough investigation and dealt with Miss D's claim as I think it ought to have, then the inconvenience that I'm satisfied Miss D suffered as a result, could've been avoided. Consequently, I think Esure ought to pay Miss D compensation of £600, for the trouble and upset caused. Which I think is fair and in line with our guidelines on compensation.

### **Putting things right**

Taking all of the circumstances into consideration, and to put matters right, I direct Esure as I set out below.

### **My final decision**

For the reasons given, I uphold Miss D's complaint.

To put matters right, Esure Insurance Limited to:

Settle the claim.

To pay Miss D £600 compensation, for the trouble and upset caused.

Esure Insurance Limited must pay the above amounts within 28 days of the date on which we tell it Miss D accepts my final decision. If it pays later than this, it must also pay interest on the amount from the date of my final decision to the date of payment at 8% a year simple.

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

Ayisha Savage  
**Ombudsman**