

The complaint

Mr S is unhappy with Accredited Insurance (Europe) Ltd's (Accredited) handling and refusal of a claim made under his home insurance policy.

What happened

Mr S has a home insurance policy underwritten by Accredited.

In April 2023, whilst painting, Mr S had an accident which resulted in paint being spilt across his carpet. Mr S made a claim to Accredited for accidental damage.

Accredited asked Mr S to provide images of the damage which had been caused and quotes for replacement carpet. Mr S was under the impression that his claim had been accepted, so he disposed of the damaged carpet. However, Accredited then declined the claim.

Accredited said that as Mr S hadn't put sheets down to protect the carpet when painting, they said he hadn't complied with the policy conditions to take reasonable care. They also said the accidental damage cover had exclusions which meant the claim wouldn't be covered either, so they declined Mr S' claim.

Mr S was unhappy with Accredited's position and approached this service.

One of our investigators looked into things but she didn't uphold the complaint. She thought Accredited had fairly declined the claim. She also said there was no evidence that Mr S was told to remove the carpet, so she didn't recommend Accredited do anything further.

Mr S didn't agree and asked for a final decision from an ombudsman.

I reached a different outcome to our investigator, so I issued a provisional decision to give both parties an opportunity to comment on my initial findings before I reached my final decision.

What I provisionally decided – and why

In my provisional decision, I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As I've reached a different outcome to our investigator, I'm issuing a provisional decision to give both parties an opportunity to comment on my initial findings before I reach my final decision.

Mr S had an accident when painting which resulted in paint being spilt across the carpet. His policy covers accidental damage which is defined as:

"Sudden, unexpected and physical damage which:

- i. happens at a specific time; and*
- ii. was not deliberate; and*
- iii. was caused by something external and identifiable.”*

Accredited relied on two different policy conditions and exclusions when declining the claim. I'll consider each in turn.

Mr S was up a ladder painting when the accident occurred, he says he overreached and he dropped the tin of paint which resulted in paint being spilt across the carpet. Accredited has relied on the following condition being breached as part of the reasons in declining the claim:

“Reasonable care and preventing loss

- a. you must take all necessary steps to prevent or limit accident, injury, loss or damage to your buildings and contents or liability to others.”*

Accredited says that Mr S didn't have any dust sheets down to prevent damage to his carpet whilst painting. So, they say he hasn't complied with the above term. I'm not minded to agree with what Accredited say here, I'll explain why.

Mr S has explained that he had removed the wallpaper from the wall and was planning on painting it. At the time the accident occurred, he was 'cutting in' the edges, i.e., focussing on the smaller areas of detail with a small brush before painting the bigger surfaces.

Mr S was planning to paint roller the rest of the wall after doing the 'cutting in', and at that point he says he was planning to cover the carpet due to the bigger area being painted and the risk that presented whilst using a roller.

I don't think Mr S has acted unreasonably. He recognised the risk in using a roller to paint a bigger area and had planned to mitigate that risk. Whilst carrying out small detailing work, with a small brush closely in his control, Mr S didn't perceive any risk to his carpet or any need to place dust sheets or covering on the floor. It wasn't until Mr S over-reached on top of a ladder that the accident occurred, and he dropped the paint tin. Up to that point, Mr S' actions hadn't caused damage to his carpet, so I don't agree he failed to take reasonable care during that initial painting.

Even if Mr S had placed sheets around the edges, it looks like the paint tin has hit the ground and splattered away from it across the room, so unless the entire room was covered in sheets, I think that paint would have damaged the carpet in any event.

Therefore, unless anything changes as a result of the responses to my provisional decision, I don't think Accredited has acted fairly or reasonably by relying on a breach of this condition to decline Mr S' claim.

Accredited has also relied on the following exclusion under the accidental damage section of his policy:

"We don't cover:

...

e. loss or damage as a result of any alterations, extensions, renovations or repairs to the buildings, including settlement or shrinkage of buildings."

However, I don't think it is fair to rely on this exclusion either. I say this because I don't think the painting Mr S was carrying out was alterations, renovations or repairs.

Instead, in my view, it was just routine decoration. I can see why the above wouldn't be covered as in my view these would be more extensive works and they would present an increased risk of damage to Accredited, but redecoration is standard routine upkeep expected of all homeowners. In fact, Accredited also don't appear to consider redecoration as anything significant either and this is reflected in other areas of the policy terms:

"You must tell us before the start of any building work, conversions, renovations, demolitions...

...

You do not need to tell us if the work is for redecoration only, is routine maintenance..."

And under that same reasonable care and preventing loss policy condition that Accredited relied on when declining Mr S' claim, it also requires Mr S to:

"You must make sure that your buildings are maintained in a good state of repair."

In my view, complying with this condition is what Mr S was doing when the accident occurred. And I don't think the above exclusion applies here.

So, unless anything changes as a result of the responses to my provisional decision, I'm not minded to conclude Accredited has acted fairly by declining the claim on this basis.

In addition, Accredited has said that the paint brush and pot have been left in situ and appear in the video and haven't been removed immediately to mitigate loss. However, I don't agree with what Accredited say here. Mr S took the video immediately after the incident, with the items still in the same place. The paint was already on the carpet, and not just in these areas, so I don't see how removing them would have mitigated anything as the paint spillage and damage had already occurred.

Furthermore, I think Mr S acted reasonably in ensuring things were left in place so he could demonstrate his loss and what happened to Accredited. If Mr S had removed the paint can and paintbrush, equally Accredited could have challenged that decision too.

With the above in mind, I'm minded to conclude that Mr S has acted reasonably, and Accredited has unfairly declined his claim by relying on the above conditions and exclusions. Therefore, unless anything changes as a result of the responses to my provisional decision, I'll be directing Accredited to deal with Mr S' accidental damage claim in line with the remaining policy terms.

After reporting the loss, Mr S says he was told the claim would be settled before later being declined. But as a result, in the interim, Mr S disposed of the damaged carpet. Mr S says that if he wasn't led to believe the claim would be settled, he wouldn't have disposed of the carpet and could have had it cleaned instead. However, Accredited says it is unable to retrieve the call recording to demonstrate either way what was discussed.

This point would be important if I thought Accredited had fairly declined Mr S' claim. This is because I would need to decide, on balance, if Accredited had caused Mr S to dispose of the carpet, and whether they needed to do anything to put that right, outside of the declined claim and policy terms. However, because I think Accredited reached the wrong claim decision, this point is to an extent irrelevant now, as if my final decision remains the same as my provisional decision, I'll be directing Accredited to deal with the claim.

Having said that though, as Mr S no longer has the carpet and has paid to replace it, for Accredited to deal with the accidental damage claim, they may need additional information from Mr S to be able to do so.

So, if my final decision remains the same as my provisional decision, and Mr S accepts it, he'll need to liaise with Accredited directly regarding the settlement of the claim. But if Mr S is unhappy with whatever settlement is ultimately offered, he'd be free to raise a new complaint about that, and bring it to us to consider, subject to our usual rules and timescales.

Mr S has also said he's unhappy with delays in the claim. Having considered what happened, I don't think the timescale from claim reporting to claim decision was unreasonable – it was only six days. However, for the reasons outlined, I don't think the claim decision actually reached was fair. Therefore, in addition to dealing with the claim in line with the remaining policy terms, I'm also minded to direct Accredited to pay Mr S £150 compensation for the distress and inconvenience caused."

So, I was minded to uphold the complaint and to direct Accredited to deal with Mr S' accidental damage claim in line with the remaining terms and to pay Mr S £150 compensation.

The responses to my provisional decision

Mr S responded and accepted the provisional decision

Accredited responded but they didn't agree. They said that the decision relies heavily on the call recording. Accredited provided this and said that at no point was Mr S told to dispose of his carpet. They also referred to the policy term which says items must not be disposed of without their agreement.

Accredited said that in light of the call, they don't see how it can be disputed that they led Mr S to dispose of his carpet. They also reiterated that it was only six days between the claim and Mr S disposing of the carpet and they questioned why Mr S did this.

Accredited also re-sent screen shots of the paintbrush in situ on the carpet and questioned why this wasn't removed. They also reiterated there were no dust sheets in place and referred to the policy conditions and exclusions. They also said that in light of this, they'd welcome comments from the ombudsman why the ombudsman says they have reached the wrong claim 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.

And I've thought carefully about the provisional decision I reached and the responses to it. Having done so, my final decision remains the same as my provisional decision.

In response to my provisional decision, Accredited has again mentioned the policy exclusions and conditions, the paintbrush being left in situ and no dust sheets being present. And they've said they welcomed an explanation from the ombudsman to outline why the ombudsman thought they had reached the wrong claim decision.

However, it is exactly these same points which I already talked about in my provisional decision, to address those same arguments and points previously presented by Accredited. I explained my thoughts on the paintbrush remaining in situ, the dust sheet, and why I thought it was unfair and unreasonable for Accredited to rely on the reasonable care condition and policy exclusions. And I explained why I thought they'd unfairly declined the claim. So, as I've already addressed these same points in my provisional decision, I won't reiterate the same again in full detail here.

My final decision remains the same as my provisional decision, that I think it was unfair and unreasonable for Accredited to decline Mr S' claim. So, my final decision remains the same, that Accredited need to deal with Mr S' accidental damage claim in line with the remaining policy terms.

Accredited has also focussed their response to the provisional decision on the disposal of the carpet, and that they say Mr S did this prematurely and against policy conditions. I hadn't heard the call which Accredited referred to previously, as they didn't provide it until I issued my provisional decision.

Having listened to the call now though, I'll add that I agree with Accredited that Mr S wasn't told to dispose of the carpet. But equally, Mr S wasn't told he needed to leave it in situ either. Instead, he was told he needed to obtain two quotations for replacement. Accredited says Mr S didn't comply with the condition which states not to dispose of any damaged items, but equally Mr S wasn't told about this in the call either.

But regardless of now being able to hear that call, my thoughts on this follow exactly the same logic as outlined in my provisional decision. Whether or not Accredited's actions, or lack of actions, resulted in Mr S disposing of his carpet would be particularly important if I thought they'd fairly declined the claim.

If I thought the claim declination was fair, I'd then need to decide whether Accredited was responsible and needed to do anything outside that declined claim to put things right, such as replacing it outside the policy terms or compensating Mr S for the disposal. But I do think Accredited reached the wrong claim decision when declining the claim as outlined, so Accredited now need to deal with the claim under the policy cover. Mr S has already demonstrated the loss that occurred and damage to his carpet before disposal, so Accredited now need to deal with his accidental damage claim.

As I mentioned in my provisional decision, Mr S may need to provide Accredited information to be able to deal with the claim, such as information about the type of carpet, or show the costs he incurred in replacing it etc if required by Accredited to reach settlement. But as I also said, if Mr S remains unhappy with the settlement that is ultimately offered, he'd be free to raise a new complaint about that, and bring it to us, subject to our usual rules and timescales.

My final decision also remains that Accredited need to pay Mr S £150 compensation, for the same reasons outlined in my provisional decision.

My final decision

It's my final decision that I uphold this complaint and direct Accredited Insurance (Europe) Ltd to:

- Deal with Mr S' accidental damage claim in line with the remaining policy terms
- Pay Mr S £150 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 15 November 2023.

Callum Milne
Ombudsman