

The complaint

Mr and Ms E complain about the decision by Wakam to turn down their accidental damage claim made under their buildings insurance policy.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

Having done so, I agree with the conclusions reached by our investigator and for these reasons:

- The policy covers accidental damage, which means unexpected and unintentional damage or breakage to the property, including septic tanks. The policy excludes loss or damage caused by wear and tear or any other gradual operating cause.
- When Mr and Ms E made the claim, they explained the tank wasn't working. And that they'd previously flushed wet wipes down the toilet which they thought might have been the issue. However, they'd had the tank emptied before making the claim, and the problem remained.
- Wakam appointed a drainage contractor to establish a cause of damage. The contractor said the tank was full and appeared not to be functioning correctly. The recommendation was to drain down the tank and system to assess its condition.
- Wakam decided not to carry out the recommended further investigations, and instead relied on the gradual operating cause exclusion to turn down the claim. Wakam thought the wet wipes had likely caused a blockage over time. However, we don't know that the wet wipes were the cause of the problem, particularly since the tank was emptied and the wet wipes removed before Mr and Ms E made the claim. So since the cause of damage hasn't been established, we don't know that it happened gradually.

- In making a claim, it is for the insured to show the claim is valid. Though Wakam decided to carry out investigations to establish the cause of damage. By starting these investigations, I think it ought to have completed them. Instead, Wakam relied on the gradual operating cause exclusion to turn down the claim rather than do this. In relying on an exclusion to turn down a claim, the onus is on an insurer to show the exclusion applies. Wakam hasn't done so here, as we still don't know the cause of damage. Also, Wakam was aware that Mr and Ms E had put wet wipes into the system from the outset, but still chose to carry out investigations into the cause of the damage.
- There isn't enough information for me to say there was accidental damage to the septic tank and that the claim should be paid. But as I've said, since Wakam started investigations to find out the cause of damage, I agree with our investigator that it would be fair and reasonable for Wakam to complete those investigations. It can then reconsider the claim once the recommended investigations have been done.
- Mr and Ms E have since had the drain jet washed, which has apparently restored a partial flow to the system, but they say it is still not fully operational. I think Wakam's handling of the matter has caused unnecessary delays here, and it should pay Mr and Ms E £200 compensation to recognise the inconvenience this has caused.

My final decision

My final decision is that I uphold this complaint. I require Wakam to carry out the recommended further investigations to establish the cause of the damage, and then reconsider the claim. I also require Wakam to pay Mr and Ms E £200 compensation for the delay in dealing with their claim*.

Wakam must pay the compensation within 28 days of the date on which we tell it Mr and Ms E accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Ms E to accept or reject my decision before 8 March 2024.

Chantelle Hurn-Ryan
Ombudsman