

The complaint

Mr R and Miss S have complained about Advantage Insurance Company Limited's ('Advantage') handling of their claim for fire damage under their home insurance policy. For the avoidance of doubt, the term 'Advantage' includes its agents and representatives for the purposes of this decision.

What happened

Unfortunately, Mr R and Miss S's summer house suffered extensive fire and smoke damage in December 2023. They made a claim to Advantage (their home insurers at the relevant time) as they were looking for it to pay for the cost of repairs. A claim for contents was also referred to Advantage which then appointed a loss adjuster due to the high cost of the claim.

Advantage declined the claim as it said that claim didn't meet the policy terms and conditions. Mr R and Miss S complained to Advantage. It offered £50 compensation for an initial error in the claims process, however it maintained its decision to decline the claim and Mr R and Miss referred their complaint to this service.

The relevant investigator didn't uphold Mr R and Miss S's complaint and said that he was satisfied that Advantage had acted fairly and reasonably in its application of the policy terms and conditions to the circumstances of this case.

Mr R and Miss S were unhappy about the outcome of their complaint. The matter has therefore been referred to me to make a final decision in my role as 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.

The key issue for me to determine is whether Accredited applied the terms of the relevant policy in a fair and reasonable manner in declining Mr R and Miss S's claim and generally in relation to the handling of the matter. I consider that it has acted fairly and reasonably as regards its decision to decline the claim. I do consider that it could have provided a better service, however I consider that it's recognised this failing by paying an adequate sum of compensation. I'll now explain why I've reached this decision.

In reaching this decision, I've also considered the submissions of the parties as summarised below. Turning firstly to the submissions of Mr P and Miss S, they first stated that the agent who had initially attended their property had agreed that the claim could be processed. After this, they said that Advantage changed its mind and sent a loss adjuster out.

Miss S said that the fire started; *'at the outlet of the building and caught fire to the external wood'*. She said that the agent who initially attended went to the rear of the building to look at this and agreed. At no point did the first agent attribute the damage to the log burner. The agent also looked up the flue whereas the loss adjuster *'stood in the centre of the room and did not move. She did not view the chimney or the rear of the building. I consider that her*

mind was already made up. Miss S reiterated that the loss adjuster didn't go near the fireplace, flue or rear of the building. She'd simply explained that they were inundated with flood claims at the time. They questioned what Advantage thought was wrong with the log burner and that this needed to be verified as it was such a strong statement.

Mr R and Miss S were adamant that Advantage was incorrect in saying that Mr R and Miss S had suggested that there may have been a fault with the log burner and said this wasn't true as they'd been using the burner with no issues. They said, *'of course the fire started due to burner being lit but that does not mean there was an issue with the burner itself.'* Mr R and Miss S said they were very clear that the fire started on the outside of the building where the flue exited, that there was no fire around the log burner and that *'the wooden chimney was still totally intact.'* They said that the photographs showed that the fire didn't burn the side of the building but that it spread across the ceiling, burning it and causing collapse. They felt it was clear how the fire had progressed.

As to the suggestion that it was likely that the fire was ignited by a build-up of soot and debris, Miss S questioned how they were to know that they should sweep the chimney of an outbuilding which was used on an irregular basis. She thought that this was, *'utter nonsense and would not stand up in a court of law'*. Miss S thought that specific requirements were the responsibility of the provider to explain and not for the customer to guess. Mr R and Miss C said they were told by the original agent that the claim would be agreed and works carried out and thought Advantage would try anything *'to get out of paying what was a genuine and valid claim'*.

Miss S felt that the £50 compensation offered by Advantage wasn't fair, bearing in mind the distress caused, and Mr R had been receiving intensive treatment at the time for a serious health condition and yet had to carry out the repairs himself. They felt that the offer was an insult and offensive. They also said that the decline of the claim had caused a lot of stress.

I now turn to Advantage's submissions regarding this matter. It said it instructed agents to assess the damage, and due to the nature of the claim, it was passed to a validation team for review. Advantage relied upon reports produced by the relevant agents. The agents considered that the cause of the fire was the log-burner and noted that it had been in place for three to four years with no issues but hadn't been swept in that time. Advantage also relied upon its loss adjuster's view that the claim should be repudiated, based on a lack of reasonable care to mitigate or prevent a claim, and they considered the insured was in breach of the relevant condition applicable to the policy.

The relevant report noted that the log burner had originally been in the house, that Mr R had installed it with a new chimney when he built the summer house. It was noted that the building was used regularly with the log burner being used at least weekly throughout the winter months. It recorded, *'The chimney flue has never been swept in this period. The Fire began on the flue of the chimney and we believe that this likely ignited due to a build up of soot and debris following no professional installation and follow up maintenance.'* Advantage considered that regular maintenance and inspection of log burners was crucial to ensure safe and efficient operation and to reduce the risk of fire. It said that manufacturer's instructions should be followed, as well as inspection by a professional at least once a year.

Advantage accepted that it was unfortunate that it didn't review the policy exclusions at the outset and that the initial agent had therefore wrongly confirmed the claim could proceed. It recognised that this was an error and so the decline of claim was unexpected. It realised that this caused confusion and frustration. It therefore apologised to Mr R and Miss S and awarded £50 in compensation for this error. In conclusion, Advantage maintained its decision on the main issue regarding its decline of Mr R and Miss S's claim. However, it upheld their complaint about the service issue.

The starting point in cases of this type will be the wording of the policy terms and conditions, as this forms the basis of the relationship between the insurer and customer. Insurance policies don't cover for every eventuality. In this case, whilst fire and smoke damage is covered in principle, accidental damage isn't covered by the policy. It includes standard conditions and exclusions. Under the heading *'taking care of your property'*, it states as follows, *'You and your family must ensure that all reasonable precautions are taken to avoid injury, loss or damage, including taking all practical steps to safeguard the insured property from loss or damage. The insured property must be kept in a good state of repair'*

I must decide what happened on the balance of probabilities, being the civil standard of proof. I've concluded that it wasn't unreasonable for Advantage to reach a position that since the chimney flue had never been swept during this time period, the fire *'likely ignited due to a build-up of soot and debris following no professional installation and follow up maintenance.'*

I note that the log burner had come from the main house and had been installed by Mr R along with a new chimney when he built the summer house. I also note that the fire was probably lit on a weekly basis in the winter months. I also understand that the chimney and flue hadn't been swept since they were installed in 2020. There is also no evidence that the log burner, chimney and flue had been regularly maintained in accordance with any manufacturer's guidelines or professionally inspected.

Advantage had referred the matter to its agents, who provided their professional opinion. Whilst Mr R and Miss S disagree with this opinion and there has been no forensic examination of the exact cause of the fire, I've seen no professional opinion to the contrary. The service will generally accept the evidence of the experts whether instructed by the insured or insurer in the absence of any conflicting professional evidence. Mr R and Miss S accept that the fire started due to burner being lit and on the balance of probabilities, I'm persuaded that the most likely cause of the fire had been igniting of material due to a build-up of soot and or debris. Whether the fire started in the flue itself or the building's outlet, this remains the most likely explanation for the incident. There is an expectation that log burners and flues will be checked on a regular basis and that regular maintenance and inspection takes place to minimise the likelihood of the type of event which occurred here.

In conclusion, I don't think Advantage acted unfairly in the way it applied the policy terms and conditions and in declining the claim.

As for the service provided by Advantage, it accepted that this was not as it should be. It's understandable that Mr R and Miss S would have been particularly disappointed by Advantage's change of stance. Initially, an agent indicated that the claim would be progressed and so there was a clear loss of expectation. This meant that Mr R had to carry out the relevant repair works himself while suffering from ill health.

Whilst I have considerable sympathy for Mr R and Miss S's predicament and whilst I appreciate that the fire will have been a traumatic event, I can't say that Advantage acted unreasonably. Insurers are entitled to carry out reasonable enquiries and investigations and unfortunately this does mean that the insurer's position does sometime change after further consideration. I consider that payment of a modest sum of compensation was therefore appropriate to recognise the disappointment that the error and change of position caused. In the circumstances, I can't say that the apology and compensation offered by Advantage of £50 was unfair or unreasonable. It was in line with the service's guidelines regarding a failure of this type.

I appreciate that Mr R and Miss S feel very strongly about the matter and that this decision will come as a great disappointment to them. However, I must determine the matter based

on the available evidence. In conclusion, I'm not satisfied on the balance of probabilities, that all practical steps had been taken by the policyholders to safeguard the insured property from loss or damage. As such, I can't say that it was unfair or unreasonable for Advantage to find that the damage and loss were excluded from cover and to decline the claim.

My final decision

For the reasons given above, I don't uphold Mr R and Miss S's complaint and I don't require Advantage Insurance Company Limited to do any more in response to their complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R and Miss S to accept or reject my decision before 6 September 2024.

Claire Jones
Ombudsman