

The complaint

Wakam's been represented by agents for the claim and complaint. For simplicity in places I've referred to the agents' actions as being Wakam's own. For the same reasons I've referred to Mr and Mrs F's representative's actions as being their own.

What happened

Mr and Mrs F noticed foul odours in their home. An inspection by an environmental services firm, E, found their septic tank had moved, causing damage and blockage of its soakaway and vents. As a solution it recommended replacing the septic tank and a length of sunken drainage pipe.

In December 2022 Mr and Mrs F claimed for the loss against their Wakam home insurance policy. They considered it should be covered as accidental damage (AD). Wakam inspected the site. It considered limited repairs, instead of full replacement, to be possible. It offered a cash settlement. Mr and Mrs F declined it. Wakam said it would arrange for its contractor to undertake repairs.

However, repairs didn't take place. Instead in May 2023 Wakam declined the claim entirely. It did so having received a report from a further drainage company - G. It said it considered movement of the tank to be the result of a poor installation. It considered the cause to be one excluded by the policy - poor workmanship. It considered the sunken pipe to have resulted from poor installation or settling base - with both causes excluded by the policy.

Mr and Mrs F complained. They didn't accept the grounds for decline. In August 2023 Wakam issued a complaint final response. It continued to decline the claim. It didn't accept any damage to be covered by any of the insured perils on the policy. It referred to two AD exclusions - faulty design and gradually operating causes - to decline the claim.

In February 2024, unsatisfied with Wakam's position, Mr and Mrs F referred their complaint to the Financial Ombudsman Service. They feel it's unfair that Wakam accepted and then declined their claim. They consider it deliberately delayed the claim. They feel the claim should be accepted as (AD) or subsidence. To resolve their complaint they would like Wakam to accept their claim, reimburse their tank emptying costs and compensate them for distress and inconvenience.

Our Investigator only considered events after 21 April 2023. On that date Wakam had issued a final response letter. Mr and Mrs F had referred their complaint to this Service more than six months after the April letter. So the Investigator was of the opinion, based on our rules, that we are unable to consider events before that date.

Our Investigator found Wakam had fairly applied the exclusion to decline the claim. He wasn't persuaded it was responsible for unreasonable delay in the period he had considered. As Mr and Mrs F didn't accept that outcome, the complaint was passed to me to decide.

I haven't considered matters addressed in the April 23 complaint response. The focus of that response was Mr and Mrs F's dissatisfaction with Wakam's response to the claim at that stage - at that point a partial acceptance for one issue, with another still under consideration.

As set out above, after April 2023 Wakam's position changed, in May 2023, to a full decline. The August 2023 complaint response responded to Mr and Mrs F's concern about the full decline. So them not referring their first complaint within the time limits for the April 2023 response doesn't affect my consideration of the main issue - the full claim decline. But it does prevent me considering any concern at delays before April 2023 - another matter addressed in that final response.

I issued a provisional decision. In it I explained why I didn't intend to require Wakam to settle the claim or to do anything differently. As its reasoning forms part of this decision I've copied it in below. I invited Mr and Mrs F and Wakam to provide any evidence or comments they would like me to consider before issuing this final decision. Wakam accepted the outcome, providing no further evidence. Mr and Mrs F didn't respond.

what I've provisionally 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 don't intend to require Wakam to settle the claim or to do anything differently.

As this is an informal service, I'm not going to respond here to every point or piece of evidence Mr and Mrs F and Wakam have provided. Instead I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted.

For me to find the claim had been unfairly declined I, before considering any exclusions, need to be persuaded Mr and Mrs F have reasonably shown the loss or damage was caused by one of insured perils listed in their policy. Wakam concluded that it wasn't. Mr and Mrs F feel the loss is covered under AD or subsidence. So I've considered those two sections of cover.

accidental damage

The policy terms state Mr and Mrs F are covered for unexpected and unintentional damage or breakage to their buildings and any property for which they are legally liable (including domestic oil, gas and water pipes, cable, sewers, drains and septic tanks) by a single and one off event resulting from a sudden and external means.

I've first considered the septic tank. Its accepted there's 'damage'. Septic tanks are listed as covered. But I haven't been persuaded any damage or breakage was likely caused by a 'single and one off event resulting from a sudden and external means'.

E found ground movement to have caused the damage to the septic tank and soakaway. It didn't suggest a cause of that movement. It did though explain a like for like replacement wouldn't be suitable as the septic tank is located in an area of seasonal high-water table.

Wakam's first drainage surveyor, D, also found ground movement to be involved in the damage to the septic tank. It said the cause of ground movement was probably wet conditions resulting from its proximity to a water course and culvert. G is reported to have also referred to wet ground as a cause.

Mr and Mrs F have said, as a possible cause, that the septic tank was clipped during lawn mowing. But on balance, taking into account E, D and G's assessments, I consider the most likely cause of movement of the ground was the wet condition of the local soil. It seems moving ground resulted in damage to the tank and soakaway. That might be considered 'external'. I'm not persuaded the damage was likely from 'a single one off event'. Instead it seems more likely the movement and damage happened over time.

E and D both made CCTV inspections of the drainage pipe. Both found the same area to be bellied or sunk. Both reported it holding foul waste or water. So it could be said to not be functioning correctly. So it might be consider that there is 'damage'.

E didn't suggest a probable cause. D considered the issue to be a poor fall. It considered that likely to have resulted from poor installation or gradual settlement of poorly compacted base. I wouldn't consider either to be 'unexpected'. And I haven't been provided with any other persuasive explanation of cause. So based on the above I can't say Wakam unfairly failed to accept the claim under the policy's AD cover.

subsidence, heave or landslip

Mr and Mrs F's policy also covers them for loss of damage to their 'buildings' or contents as a result of subsidence or heave of the site upon which the buildings stand or landslip.

The term restricts cover to 'buildings' or 'contents'. Building is the relevant one here. That is defined by the policy as:

'The main structure of the home and fixtures and fittings attached to the home including permanently fitted flooring, bathroom furniture, ceramic hobs and glass, domestic outbuildings and private garages, radio and television aerials satellite dishes, their fittings and masts which are attached to the home, permanently installed swimming pools, tennis courts, drives, patios, terraces, walls, gates, paths, fences and fixed fuel tanks.'

'Home' is defined by the policy as the domestic private dwelling of standard construction that you occupy which is located at the premises shown in the policy schedule.

Neither of the definitions for 'buildings' or 'home' refers to septic tanks or drains. I refer back to the AD cover I set out above. That specifically mentions pipes, drains and septic tanks as items separate to, and so presumably not intended to be included under the heading of, buildings. So drains and septic tanks aren't covered by the subsidence term. That means I can't fairly find Wakam should cover the loss under that section of the policy. exclusions

exclusions

I haven't considered Wakam's application of the two exclusions. Doing so wouldn't make a difference to the outcome of the complaint. That's because I've already found, its decision that the loss isn't covered by the policy's insured perils, to be fair.

compensation

I have considered Mr and Mrs F's request that Wakam pay them compensation. They have referred to delay. However, the period they refer to, prior to April 2023, currently falls outside of the scope of this complaint. It appears, from what I've seen of Wakam's records that the April 2023 final response addressed their concern about delay.

I'm not persuaded of any unreasonable delay after April 2023. Wakam notified Mr and Mrs F of its claim decline within a few weeks of it receiving the report, from G, that influenced its change of decision.

I don't intend to award compensation for the impact on Mr and Mrs F of the change in claim outcome. I understand it will have caused them frustration. Wakam did initially offer a cash settlement for limited repairs. It seems that as the claim outcome was still in dispute Wakam commissioned, in the interest of fairness and finding a resolution, an additional inspection - G's. Unfortunately, for Mr and Mrs F, the new evidence in G's report influenced Wakam's full decline - a decision I haven't been persuaded was unfair or not in line with the policy. And I don't consider it would be reasonable, in those circumstances, to require Wakam to pay compensation.

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.

I haven't been provided with any further evidence. So I've no reason to change my position. As such I'm not requiring Wakam to settle the claim or to do anything differently.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F and Mr F to accept or reject my decision before 6 March 2025.

Daniel Martin
Ombudsman