

The complaint

H, a retail business, complains about Zurich Insurance PLC's decision to decline a claim made under H's shop insurance policy.

What happened

The background to this complaint is well known to both parties, so I'll provide only a brief summary here.

H has a shop insurance policy underwritten by Zurich, which provides cover for H's stock and for business interruption, amongst other things.

H made a claim in November 2023, when they found their shop premises inundated with water after the ceiling in their back room (toilet) collapsed.

The claim related to water-damaged stock in the shop worth over £30,000 – and to the closure of the business for two and a half months for safety reasons.

Zurich declined the claim saying that the damage was caused by wear and tear to the flat roof above the shop and was therefore excluded from cover under the policy terms.

H made a complaint to Zurich about the claim decision. They admitted delays in the investigation of the claim – which took around six months – and gave H £150 in compensation. But they maintained that the decision to decline the claim had been correct.

H weren't happy with this outcome and brought their complaint to us. Our investigator looked into it and didn't think Zurich had done anything wrong.

H disagreed and asked for a final 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.

Just to be clear, H rent out the shop premises and do not have cover for damage to the building itself.

The policy terms are clear. Zurich will cover damage to stock – and business interruption – caused by any one of a number of listed perils. These include storm and escape of water (from fixed apparatus).

The terms also include cover for damage resulting from by any cause not specifically excluded under the terms and conditions. The exclusions clearly include "*gradual deterioration or wear and tear*".

I don't think there's any dispute in this case about where the water that got into the shop and damaged the stock came from.

There's a flat roof at the rear of the shop. H say water gathered there during very heavy rains, got inside the (supposed) waterproof envelope of the building and caused the collapse of the toilet ceiling.

I don't think Zurich disagree with that. The dispute here is about whether it was a storm that caused the water ingress, or the water penetrated gradually over time due to wear and tear in the roof.

I know H will be disappointed – and they have my sympathy for the damage that's been caused to their business – but the evidence very strongly suggests that the problem with the roof was down to wear and tear rather than a one-off insured event such as a storm.

First, the weather records for the period in question show no storm conditions. There are no weather events in that period, in other words, that might conceivably cause damage to an otherwise sound and well-maintained building.

Second, the photographs of the flat roof – provided by both Zurich and H – show that the flat roof covering is old and worn, with signs of previous repairs and pre-existing damage. They also show standing water in a number of places on the roof.

Third, the photographs taken by the loss adjuster, around two weeks after the collapse of the ceiling, show a large amount of black mould on the walls of the toilet. The extent of that growth would tend to suggest that the walls had been damp for some time.

Fourth, the loss adjuster reported that the flat roof was in a very poor condition. They also reported speaking to contractors appointed by H to repair the roof, who confirmed that impression.

Finally, Zurich's inspections showed that the timbers of the roof – above the toilet ceiling – were affected by damp and/or were rotting. Which also explains why the ceiling collapsed so dramatically.

In summary, there's absolutely no evidence to support the idea that the collapse of the ceiling and the water ingress were caused by a storm – or indeed any other insured event. All of the evidence suggests an on-going issue with the roof due to age and wear and tear.

That being the case, there's nothing unfair or unreasonable about Zurich's decision to decline the claim, citing the clear wear and tear exclusion set out in the terms of the policy.

I'm aware that maintenance of the building was a matter for H's landlord rather than H themselves. But the policy terms are clear about the cover provided. And clearly Zurich can't be held responsible for the landlord's failure to maintain the flat roof.

Zurich admitted that their investigations took longer than they'd expect. That said, this was a high value claim which raised a number of concerns and issues. So, it wasn't unreasonable for Zurich to take some time to investigate matters.

Any *unnecessary* delay was therefore relatively short, and I'm satisfied that the £150 compensation Zurich awarded to H was reasonable in all the circumstances.

My final decision

For the reasons set out above, I don't uphold H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask H to accept or

reject my decision before 13 December 2024.

Neil Marshall
Ombudsman