

The complaint

The trustees of a trust, which I will refer to as S, complain about the handling and decline of its marine insurance claim by MS Amlin Insurance SE.

What happened

The following is intended only as a brief summary of events. Additionally, whilst a number of individuals have been involved in the correspondence, for the sake of simplicity, I have just referred to S and MS Amlin in this regard.

S owned a yacht and had cover for this via a marine insurance policy underwritten by MS Amlin. Both parties are aware of the content of this policy, but I have set out some of the more relevant parts below. The policy says:

“We cover Your Vessel against all risks of sudden accidental physical loss or damage during the period of cover, subject to the terms, conditions and exclusions of this policy. We also cover physical damage that is caused directly by any Latent Defect in Your Vessel, however, We do not cover the cost of repairing or replacing any detective part.”

And:

“We do not cover:

5.1 Physical damage or losses caused by or resulting from normal wear and tear, gradual deterioration, delamination, marine life (except or marine mammals and large fish), electrolysis, osmosis, corrosion, rust, dampness, normal wetting or weathering.

...

5.6 Mechanical breakdown, failure, or breakage of [certain] parts or components of the Vessel... Unless such breakdown, failure, or breakage is a direct result of ... sinking...”

In late July 2023, the yacht suffered damage and S claimed on the policy. An engineer arranged by MS Amlin inspected the boat in late August 2023 and concluded that a pump in the yacht had:

“suffered an internal Mechanical Breakdown. This occurred due to wear & tear when a pin inside the pump failed and a washer came off which then wore a hole inside the water pump body allowing sea water to leak inside the vessel.”

The sea water that had leaked into the vessel then resulted in extensive further damage. The engineer also noted that the bilge pump may not have been operational at the time of the incident, and that the sea cock could not be closed due to corrosion. He said these issues may have increased the amount of water taken onboard. He also said that if the yacht had not been close to the marina, it could have sunk.

Based on this, MS Amlin declined S’s claim, relying on exclusion 5.1 set out above.

S complained about this, and that there were delays in the claim handling process. MS Amlin did not agree that there had been significant delays though. And it did not alter its decision on the claim. So, S referred the complaint to the Financial Ombudsman Service. However, our Investigator thought MS Amlin had acted fairly and reasonably in relation to the claim, so he did not recommend that the complaint be upheld.

S remained unsatisfied, so its complaint has been passed to me for a 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 am not upholding this complaint. I'll explain why.

Firstly, I will just reiterate that the summary above was just that, and did not seek to capture the full details or timeline of the complaint. Likewise, although I have considered all of the submissions from both parties, I am not going to comment on each aspect. Instead, I am going to focus on what I consider to be the key issues of the complaint.

I consider these to be the decline of the claim – which I will consider in two parts – and the general claim handling.

The initial cause

MS Amlin has considered the initial cause of damage to have been a mixture of electrolysis, corrosion and wear and tear. Though these mean different things, for the sake of simplicity, I've referred to these collectively as wear.

Very briefly, my understanding is that a dowel/pin that holds a plate in place within the pump most likely broke and this allowed the plate to rotate, ultimately causing a hole in the side of the pump, through which water entered the yacht.

MS Amlin considers the failure of the pin was likely due to wear. And has pointed to photos showing discolouration in this location as evidence of this.

S has said that, if this wear had been evident when the yacht was last serviced the pin would've been replaced. However, it isn't clear that a service would have included an assessment of this part. So, I am not persuaded by this.

S has also said that the parts may have corroded due to the time between the event and inspection. Whilst this does seem possible, I have not been provided with any other persuasive explanation of how the pin broke. The only other option for the failure is seemingly that the pin was removed during service. But I don't consider this to be as likely given the available evidence. And in the absence of any persuasive alternative reasons, I am persuaded that it is most likely the pin failed as a result of wear.

S has referred to comments by other experts that the damage isn't "standard" or "normal" wear and tear. However, I interpret these comments as being directed toward the damage to the pump as a whole, rather than the wear to the pin. Having the wear plate rotate internally, causing a hole, certainly does not seem to be normal or standard. The plate is not meant to rotate, so would not normally cause this sort of wear. But the cause of this happening was, most likely, wear to the pin. And given this is seemingly a consumable item, which was exposed to sea water and then exposed to the air, wear of this seems to be expected and to have most likely occurred here. I do not consider the evidence S has submitted to lead me to

another conclusion.

So, having taken everything into account, I am persuaded that the most likely cause of the initial failure and damage was normal wear.

The resulting damage

Having determined that the initial cause was wear, it is necessary to then consider the remainder of the term above. This says that damage “caused by or resulting from” wear is not covered.

I consider it fairly straightforward to conclude that the damage to the pump itself was caused by or resulting from the wear to the pin. This pin failed, allowing the plate to rotate, and this damaged the pump. There is no intervening event here or other contributing factor. But for the wear, the pin wouldn't have failed and the plate wouldn't have damaged the pump.

I have though had to think carefully about the rest of the damage that was caused to the boat.

S has referred to the exemption from exclusion 5.6 in relation to sinking. And has noted that MS Amlin's expert considered the boat may have sunk had it not been 'rescued'. However, there are a couple of issues with relying on this. Firstly, the boat did not sink. It might be arguable that it was in the first stages of sinking though. Secondly however, this exemption only relates to exclusion 5.6, and not 5.1. So, even if it can be successfully argued that 5.6 does not apply, it is necessary to consider whether the damage to the rest of the boat was “caused by or resulting from” the wear.

In considering this, I have thought about the clause and how this relates to the circumstances. The term “caused by or resulting from” creates a potentially wide exclusion.

S has said that the proximate cause of this damage was the water ingress. However, this water ingress was caused by the damage to the pump that was the result of wear. I have thought about whether there was an event that intervened here, meaning that the chain of causation from the initial wear was broken. But this does not seem to be the case. It is difficult to separate out the circumstances into two events.

I also consider the ingress of water which damaged the engine/electrics to be a reasonably foreseeable consequence of the wear that caused the pin to break and leading the plate to damage the pump. Whilst this was not the inevitable outcome, I do not consider the result to be too remote.

It is also notable that the policy makes specific reference to damage that is caused as a result of a latent defect. In this regard, the policy provides cover for subsequent/consequential loss caused by the failure of a part. That is, in many ways, what happened in this case. However, the key difference here is that the cause of failure does not appear to have been a latent defect. The cause of the initial part failure was, more likely than not, wear and tear. And there is no similar term within the policy that says that there is cover for subsequent/consequential loss to parts caused by the wear and tear of another part. The policy says quite the opposite – that damage caused by or resulting from wear and tear is not covered.

Taking everything into account, I am persuaded that MS Amlin acted in line with the policy, and fairly and reasonably in the circumstances, when declining the claim.

Claim handling

S has referred to a number of delays within the claim handling process. However, overall, I am persuaded that the claim proceeded in a reasonable timeframe. Given the circumstances, I am not persuaded that there was an unreasonable delay between the claim being reported and the yacht being inspected. And S was made aware of MS Amlin's position on the claim within a reasonable period after this.

I also consider that the actions MS Amlin took when investigating the claim were reasonable in the circumstances. And, whilst there are always individual points that could be improved, I have not been provided with anything to demonstrate MS Amlin caused any material issues that ought to have been avoided. Similarly, whilst S has referred to a number of points within the MS Amlin's expert's report being inaccurate, I do not consider that there are any errors that have had a material impact on the outcome of the claim or complaint.

It follows that I am unable to fairly and reasonably ask MS Amlin to do anything more in the circumstances of this complaint. I appreciate this will not be welcomed by S, and I am sorry to hear about the impact the event had on it and the individuals involved. But I do not uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 29 May 2025.

Sam Thomas
Ombudsman