

The complaint

Mr W complains about the way Accelerant Insurance Europe SA/NV UK Branch handled a claim he made on his home insurance policy.

What happened

In November 2021 Mr W made a claim for damage caused by a leak in his property. Accelerant accepted the claim and it was found the source of the leak was in the bathroom. It carried out some strip out works, and testing of the property, and in early 2024 it offered a cash settlement of just over £12,000. It said it was doing so as some works needed to the property were excluded under the policy, meaning Mr W would have to pay for those works himself. It said it had found dry rot in the beams of the property under the bathroom where the leak had occurred. It said under the policy terms, damage caused by dry rot is excluded, so it didn't include any amount for the rectification of this issue in its cash settlement offer.

Mr W complained about Accelerant's decision. He said he'd been out of his property since December 2022 in alternative accommodation which had often been extended at short notice which was very stressful and had an impact on his wellbeing. Accelerant issued a complaint response on 18 March 2024. It didn't accept it had handled the claim unfairly.

Unsatisfied with Accelerant's response, Mr W referred his complaint to the Financial Ombudsman Service for an independent review. Our Investigator didn't think Accelerant had handled the claim as promptly as it should have done up until March 2024. The Investigator recommended Accelerant pay £750 compensation for the impact these delays, and the poor communication, had on Mr W.

On the issue of dry rot, our Investigator didn't think Accelerant had acted fairly in saying this damage was excluded. He said it wouldn't be fair to exclude the dry rot when the expert reports had concluded it was caused by an insured event.

Mr W accepted that outcome. Accelerant didn't and made the following points, in summary:

- There is no escape of water peril on the policy, so the claim shouldn't have been accepted.
- The escape of water itself was caused by a failed seal, which is a defect in installation. So any escape of water claim should have been declined at the outset, as not covered by the policy.
- Gradually operating cause is excluded under the policy, and it seems the water damage in the bathroom did happen gradually.
- There is a suggestion the leak may have started before the policy was in force, which might also have led to declinature.
- As a result, the whole claim could have been declined. But given how long it's been ongoing, Accelerant isn't seeking to decline the whole claim. But as it could have done, it's unfair for it to also pay for the dry rot damage, which is excluded under the policy.
- It accepts it failed to progress the investigations as proactively as it should have, and an element of redress would be reasonable as a result of those delays.

Our Investigator said it wouldn't be fair or reasonable for Accelerant to now attempt to decline the escape of water claim, when it has been treating it as a valid claim for a number of years. And as he noted Accelerant has accepted it will cover the escape of water claim, it follows that Accelerant needs to reinstate the damage caused by that claim, including the dry rot damage.

Accelerant asked for an Ombudsman to consider matters, so it has come to me to decide.

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.

As this is an informal Service, I'm not going to respond to every point made or piece of evidence referred to by the parties. However, I'd like to reassure both Mr W and Accelerant that I have read, and considered, everything provided.

It seems to me that both Mr W and Accelerant accept the compensation award of £750, so I'm not going to discuss that further; I'm satisfied for the reasons given by the Investigator that this is a fair amount to recognise the unnecessary distress and inconvenience caused to Mr W. So instead, I'll focus this decision on the outstanding issue, which is whether or not Accelerant can fairly exclude repairs needed as a result of dry rot.

Accelerant has said it doesn't think the policy does provide cover for escape of water, and as such, it should be allowed to exclude the dry rot repairs, given they can't then be linked to a peril under the policy.

The copy of the policy document I've seen, dated 2021, says the policy offers cover in the event of loss or damage caused by the following 'perils':

"...water escaping from washing machines, dishwashers, fixed water or fixed heating systems or Oil escaping from a fixed heating system".

Based on the above I think Accelerant is mistaken for saying there is no escape of water peril under the policy, I'm satisfied the above peril is an escape of water one.

In response to our Investigator's view, Accelerant has listed reasons as to why it thinks the initial escape of water claim was likely incorrectly accepted, including that it now considers it was as a result of faulty installation, and that the damage happened gradually over time. Like our Investigator pointed out, these reasons haven't been provided to Mr W during this claim and complaint, so its disappointing Accelerant should raise them at this late stage.

However, even with its arguments above Accelerant accepts that, given it has treated the claim as an escape of water one since 2021, it cannot now renege on that and so it will meet the claim. I think that's a reasonable position for Accelerant to take, it would be unreasonable to seek to decline a claim at this point, given it has for so long treated it as an accepted claim under the policy. And as such, I'm not going to consider the arguments its raised as to why the claim might reasonably have been declined from the outset.

I'm not going to consider those arguments because, whether it might have been able to decline the claim in 2021 or not, I wouldn't now consider it reasonable for Accelerant to decline to cover the dry rot damage.

There is a general exclusion under the policy for dry rot. It says the policy won't cover loss or damage caused by "*corrosion, rust, wet or dry rot...*" However, the expert reports carried out by Accelerant show that the cause of the dry rot was the escape of water that Accelerant has accepted as being insured damage. And the same experts concluded it wouldn't be possible to show that the dry rot damage started before the policy was in force.

So I don't consider it would be fair or reasonable for Accelerant to then decline the dry rot repairs. This Service considers where there is evidence that the dry rot occurred as a result

of an insured event, it generally can't fairly then be excluded from the claim related repairs needed. As set out above, there have been two expert reports carried out on the dry rot. The conclusions of which were that it was most likely the dry rot was caused by the escape of water, and that it was most likely the damage started within the life of the policy.

Rot is something that happens gradually, but this Service has a well-known approach to gradual damage, and we consider whether a consumer – so in this case Mr W – should have been aware of the damage occurring. I don't think Mr W could have been aware that dry rot was forming as a result of an escape of water. I say this because the beams affected were underneath the bathroom and not visible to Mr W. And Accelerant's expert said the rot would have occurred even after the claim was reported and Mr W had stopped using his bathroom. The expert's comments on that were *"Assuming that the source of the leak was stopped at this time [November 2021] it is likely that the void would have remained damp for some time after, until it dried by natural processes such as evaporation, resulting in continued decay of the floor structure."*

Accelerant hasn't persuaded me that Mr W ought reasonably to have been aware dry rot was forming before the claim was made. And based on the comments above, Mr W couldn't have reasonably prevented it happening after the claim was made, as he ceased using the bathroom and was placed into alternative accommodation.

So Accelerant cannot exclude the dry rot repairs needed. And given the likely complexity in resolving that damage, Accelerant will need to arrange for those repairs needed to be carried out.

Mr W has told this Service Accelerant has issued a payment of around £12,000 for the remaining works needed. As Accelerant has already paid this amount to Mr W, he will need to return it if he now wants Accelerant to carry out full reinstatement of the bathroom. Or Accelerant will need to carry out the dry rot repairs needed, and then Mr W can arrange for the remaining work to be done privately. I'll leave Mr W to choose the option which best suits him.

My final decision

My final decision is that I uphold this complaint and I direct Accelerant Insurance Europe SA/NV UK Branch to:

- Pay Mr W £750 compensation for unnecessary distress and inconvenience caused.
- Carry out repairs needed to Mr W's property as a result of dry rot.
- Carry out reinstatement of the bathroom, if Mr W chooses for it to do so, and if he returns to Accelerant any amounts already paid to him for the reinstatement.

If the amount produced by the calculation of fair compensation (i.e. the reinstatement of Mr W's property needed owing to the escape of water, including the dry rot) is more than our award limit of £430,000 I will recommend that Accelerant pays any further amount over our limit. This recommendation will not be part of my determination or award. Accelerant doesn't have to do what I recommend. It's unlikely that Mr W can accept my decision and go to court to ask for the full balance. Mr W may want to get independent legal advice before deciding whether to accept this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 3 March 2025.

Michelle Henderson
Ombudsman