

## **The complaint**

Ms H and Mr F are unhappy with Advantage Insurance Company Limited's (Advantage) decision to decline a claim they made under their buildings insurance policy.

Ms H and Mr F are both party to this complaint but for ease of reference, I've referred to Ms H throughout. Any references to Advantage include its agents.

## **What happened**

In January 2024 whilst completing home improvements, Ms H identified a build-up of water under the floor of her home. And she contacted Advantage to make a claim under her buildings insurance cover. Ms H said she initially appointed a plumber to inspect things but they couldn't find any sign of a pipe leak. She explained there was bad weather, including a named storm, shortly before the problem was spotted- so it appeared the build-up of water had happened suddenly. Ms H sent a report from her builder that prompted Advantage to send a surveyor to inspect. However, when it turned out that would take over a week, Ms H asked if her builder could continue with the repairs -she was told they could as long as they took photos of the area before, during and after the repairs.

Following an inspection of Ms H's home, Advantage said the definition of flood hadn't been met and it appeared the damage was gradual. So, it declined the claim.

Ms H complained. She said Advantage didn't inspect the damage to her home immediately. And by the time it visited, remedial work had already started. Ms H says Advantage's handling of things has meant it has unfairly declined her claim. She maintains the damage is the result of a flood due to bad weather conditions in her area. Advantage responded to the complaint. It said two engineers stated within their reports that the water was ground water due to gradual wear and tear and not an isolated incident. So it maintained its position to decline the claim. Ms H remained unhappy so referred a complaint to this Service.

Our Investigator didn't uphold the complaint. He was satisfied the claim wasn't covered under the policy terms. As Ms H didn't agree, this matter has been passed to me to decide.

I issued a provisional decision on Ms H's complaint. This is what I said about what I'd 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.*

*My role as an Ombudsman at this Service requires me to decide how I think a complaint should be resolved quickly and with minimal formality. That means I'll focus on what I consider to be the crux of the complaint. Where I don't comment on every point made by the parties, that's not to say I haven't seen or considered them, it's just I don't think it necessary to specifically reference them in reaching my decision.*

*Ms H's policy covers damage to her home caused in a number of specific ways, such as fire theft and flood. And that cover is subject to a number of terms and conditions. Here, the*

damage was caused by water ingress. Only certain types of water damage are covered under the policy – that's not uncommon or unusual. And whilst there is cover for damage caused by water leaking from a pipe or similar, there's no suggestion that is what happened here.

The only two insured causes I think are relevant here are storm and flood. I'll consider each in turn.

The policy defines a storm as "wind speeds with gusts of at least 48 knots (55mph...), or torrential rainfall at a rate of at least 25mm per hour..." I've considered the weather reports Advantage provided, and whilst I agree there were strong winds in Ms H's area, I don't consider the damage being claimed for was the result of strong winds. And whilst I accept there was heavy rainfall around the time Ms H identified the water ingress, I don't agree it was enough to constitute a storm, as per the policy definition. So, I think it was reasonable for Advantage not to consider the claim under this section of the policy.

The policy defines a flood as:

**"flood**

Water from any source external to a **building**, which enters a **building**:

- a) At or below ground level; or above ground level, provided part of the body of such water is at ground level; and
- b) Does so with a volume, weight or force which is substantial in nature.

For avoidance of doubt the following do not constitute as a **flood**:

- c) The gradual seepage or percolation of water into a **building** (such as rising damp); and
- d) Water escaping from a water main, drain, sewer, pipe or other thing inside a **building**, unless such escape was solely the consequence of a **flood** falling into the above definition."

The issue I need to decide here is whether the definition of flood has been met.

Ms H says water entered the subflooring of her home following extreme weather conditions in her area, which she believes constitutes a flood. But Advantage says the build-up of water in her home is the result of an increase in ground water levels, which doesn't meet the requirements of flood as per the policy terms. As such, it said no insured event occurred.

As I've mentioned above, there's no suggestion of a pipe leak or similar so point D isn't relevant here. And as I've seen evidence of water under the floor, it seems to be accepted the water entered the building at or below ground level in volume, so point A and B have been met. Advantage is relying on point C- that water entered the building by seeping or percolating up through the ground gradually- and that means Ms H's claim wasn't met.

Ms H's builder, the only professional to see the damage first hand, said after days of torrential rain they discovered the subfloor had been flooded. Photos and videos provided support that. Her builder didn't explicitly say whether they thought the water ingress was sudden or gradual, but their mention of recent bad weather indicates their view on timing.

Their invoice includes for damp and rotten floor joists. Advantage has said this shows the damage was gradual. But in a confined space, rot can occur quickly. And there doesn't seem to have been any attempt made to establish the extent of the rot with the builder. Or to get their view on the timing or causation.

*Advantage says it has two engineer reports to support its position. However, the report completed by the onsite engineer doesn't provide any detail on the causation. So, I'm not persuaded this supports Advantage's position the damage happened gradually. I've not seen the second report, only notes within Advantage's file which to my mind, don't give any substantive reason as to why it thinks the ingress of water happened gradually. Instead, it says heavy rainfall caused the problem, which I think is in line with the builder's comments and isn't indicative of a gradual problem. So I'm not satisfied that Advantage does have two engineer reports to say the damage was caused gradually, as it said in its complaint response.*

*In light of the builder's comments, the weather data showing heavy rainfall in and around Ms H's home at the time she reported the claim, and Advantage's internal notes seeming to agree on the time of when the ingress of water occurred, I'm not satisfied Advantage has shown the damage occurred gradually. So, in my view, I think the definition of flood has been met. It follows I'm minded to uphold this complaint. And I think Advantage should settle the claim in line with the remaining terms. Ms H has explained she's completed the repairs to her home. So, Advantage should pay her a cash settlement to conclude this claim.*

*I understand Ms H has raised concerns that her policy has not been renewed. This didn't form part of Ms H's original complaint, so I won't consider these here. Ms H is entitled to raise these concerns directly to Advantage. Should Ms H's concerns remain unresolved, this would be subject to a new complaint.*

### ***My provisional decision***

*My provisional decision is I uphold Ms H and Mr F's complaint. I'm minded to direct Advantage Insurance Company Limited to accept the claim subject to the remaining terms and conditions of the policy.*

### **Responses to my provisional decision**

I invited both Ms H and Advantage to respond to my provisional decision. Ms H responded confirming she accepted my findings. Advantage responded saying it takes many months for timber joists to rot - not within days of a flood. It also referred to Ms H's builder's quote for the repairs and images of Ms H's home before the floor was lifted. It says Ms H was already undertaking work to address a damp issue in the property and in the process she identified further issues with the sub-floor resulting in the claim. It believes there was always an intention to tank the walls to address a pre-existing damp issue. And it says if there was no underlying issue with damp in the property it would not be necessary to re-design the floor and tank the walls. So, in short, it maintains its position the damage to Ms H's home happened gradually over a sustained period. And therefore, something not covered under the policy.

### **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've carefully considered Advantage's submissions. Whilst I appreciate and accept rot usually occurs over a period of time, Ms H's builder doesn't give any specifics to the extent of the rot - only that the joists needed replacing. And, upon being notified of the claim, I can't see Advantage engaged with Ms H's builder to better understand the extent of the rot. Or to get their view on causation or the period the rot may have been in-situ. Instead, the builder, the only professional to see the damage first hand said the flood had been identified following days of rain, which seems to be supported by Advantage's internal notes. I accept

what Advantage has said is possible. But the available evidence doesn't support that it's the more likely version of events. Advantage's opinion seems to be more speculation than evidential. And I'm not persuaded the builders reference to rotting joists or Advantage's interpretation of how long it takes for timber to rot is enough to say the damage occurred gradually or the ingress of water occurred over a sustained period.

Ms H accepts her builder was appointed to deal with a damp issue prior to the flood being found. She says she contacted the builder prior to the claim to deal with a damp issue and to arrange tanking on the walls. Advantage says the fact the property already had a damp issue in conjunction with the extent of the remedial work being carried out, including tanking and the replacement of timber joists for a concrete floor demonstrate an on-going issue. But I've seen no compelling evidence to support that. Ms H says there was a period of bad weather leading up to the identification of the water in the sub-floor area, which Advantage seems to accept. Given the amount of water identified, it's possible, the damp Ms H arranged to be inspected could be the consequence of the flood- not an indicator of an on-going problem. There're two options as to how the damage occurred, sudden/recent or gradual and Advantage hasn't persuaded me the latter is more likely.

In summary, and as per the comments set out in my provisional decision, I'm not persuaded Advantage has shown the damage likely occurred gradually. In my view, the definition of flood has been met. So, I uphold this complaint. And Advantage should settle the claim in line with the remaining terms. Ms H has completed the repairs to her home. So, Advantage should pay her a cash settlement to conclude this claim. Advantage is entitled to consider what a fair amount to pay is in the circumstances and may reasonably require further evidence from Ms H to help with that.

### **My final decision**

My final decision is I uphold this complaint. I require Advantage Insurance Company Limited to accept the claim subject to the remaining terms and conditions of the policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F and Ms H to accept or reject my decision before 16 January 2025.

Adam Travers  
**Ombudsman**