

The complaint

Mr and Mrs S complain that Accredited Insurance (Europe) Ltd (Accredited) declined a claim made under their home insurance policy.

What happened

Following a period of heavy rainfall in October 2023, Mr and Mrs S discovered water was flooding out from underneath their home. They took action, including removing bricks and installing a pump to allow drainage. This meant Mr and Mrs S were able to protect their property against major damage occurring.

However, as the solum (the ground underneath Mr and Mrs S's property) had been disturbed around the soil vent pipe, they made a claim to Accredited. A loss adjuster was appointed by Accredited, but Mr and Mrs S' claim was subsequently declined. The loss adjuster concluded the flooding was caused by a rise in water tables, which is excluded under Mr and Mrs S' policy terms. Mr and Mrs S complained to Accredited about the claim decision.

Accredited revisited matters and accepted a one-off flood had occurred (rather than the cause being due to a rise in water table), which is an insured event under Mr and Mrs S' insurance cover. However, Accredited said there was only damage to the solum, which didn't form part of the insured buildings, so they said the claim still wasn't covered.

Mr and Mrs S didn't agree and approached the Financial Ombudsman Service.

One of our investigators looked into things, but initially she didn't uphold the complaint. She said that she didn't think the solum would be considered part of the 'buildings' for the purpose of the policy cover. And in the absence of any damage to the main property/buildings, the investigator didn't think Accredited had acted unfairly by declining the claim.

Mr and Mrs S didn't agree and provided further evidence in support of their position. The investigator revisited things, and based on the information provided, she was satisfied the solum could reasonably be considered as part of the *structure* (which was part of the definition of buildings under the policy terms). Therefore, she recommended Accredited deal with the claim in line with the remaining policy terms. She also recommended Accredited should pay Mr and Mrs S £250 compensation for the distress and inconvenience caused.

Accredited noted they had a different view to the investigator about whether the solum would form part of the *structure* and buildings cover, and they said, in any event, the cost of repairs would fall below the policy excess, so Mr and Mrs S still didn't have a valid claim regardless. Mr and Mrs S questioned how Accredited could determine that the cost of repair would fall below the excess given they hadn't actually inspected the damaged area.

As an agreement couldn't be reached, the case was passed to me for a final 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've reached the same overall outcome as the investigator later reached.

The claim was originally declined on the basis it was concluded a rise in water table was the cause of water entering under Mr and Mrs S' property, which is excluded under the insurance policy terms. But following an internal review by Accredited, they accepted a flood occurred (rather than a rise in water table), which is an insured event.

However, although Accredited accepted the insured event of a flood occurred, the only damage reported by Mr and Mrs S was to the solum, and Accredited said that didn't form part of the insured buildings. Consequently, Accredited said Mr and Mrs S still didn't have a valid claim.

Mr and Mrs S' policy defines buildings as:

“Any permanent structure within the boundaries of your property.

This includes:

- *the structure of your home;*
- *permanently installed septic tanks, cesspits and domestic fixed central-heating gas or oil tanks;*
- *drives, patios, footpaths and terraces;*
- *boundary and garden walls;*
- *gates, fences and hedges;*
- *permanently fixed, professionally installed wind turbines as long as you have told us about these and are following the manufacturer's guidelines when using them;*
- *hard tennis courts;*
- *plants, trees, flowers and shrubs not in moveable pots or containers;*
- *radio and television aerials, satellite dishes, their fittings and masts; and*
- *the underground services, inspection hatches and covers supplying your home which you are responsible for.*

Buildings also includes the permanent fixtures and fittings in or mounted upon the buildings that could not easily be removed and reused, such as fixed solar panels (that have been professionally installed), fixed sanitary fittings (for example, toilets, sinks and baths) and laminated, wood-effect or vinyl floor coverings.”

So, the solum (the ground on which the property is constructed) isn't listed specifically within the definition of *buildings*. However, the buildings definition does also include *structure* of the home. As *structure* isn't defined in the policy, I need to decide whether this could reasonably include the solum within this.

Mr and Mrs S have provided information from their local government authority which confirmed:

"Building standards apply to the solum of a building to prevent moisture rising into the dwelling to protect the health and safety of occupants. Therefore the solum should be considered part of the structure."

In the absence of *structure* being defined by Accredited in the policy terms, and the local government authority outlining both that the solum is subject to building standards, and considered part of the structure of the property, I think in this instance it would be reasonable to treat it as part of the *structure*, and consequently part of the insured buildings.

So, as Accredited now accept there has been the insured event of flood, and I'm satisfied it's fair to treat the solum as part of the *structure* within the buildings cover, I don't think Accredited has acted fairly by declining the claim on the basis that the solum isn't covered. Therefore, I'm directing Accredited to deal with the claim subject to the remaining policy terms and conditions.

As explained above though, Accredited also said to our investigator that even if the solum was treated as part of the insured buildings (which I've decided it should be here), the cost of repairs would be very low and wouldn't exceed the policy excess, so they say Mr and Mrs S still wouldn't have a valid claim.

However, my direction is that Accredited need to deal with the claim subject to the remaining terms and conditions. So, this would mean the repair costs need to exceed the policy excess (and meet any other relevant policy terms and conditions) for a valid claim to proceed. And whilst Accredited says the costs of repairs would be very low, they haven't actually demonstrated this is the case, as a detailed inspection and/or investigation hasn't yet been carried out into what repairs are necessary. This is because the claim was declined (for both separate reasons above) before it got to that stage.

Therefore, if Mr and Mrs S accept my final decision, Accredited will need to carry out relevant investigations into the repairs required, to establish if it meets the remaining policy terms for a valid claim - including the excess. But Accredited should keep in mind that if they wish to then decline the claim based on it not meeting the policy excess (or any other reason), Accredited would need to demonstrate that's the case with supporting evidence, not simply an assumption that the cost would be low.

Whilst Mr and Mrs S have queried if an independent person funded by Accredited would be appointed to investigate and inspect, it would be for Accredited to carry out their own investigations they deem appropriate as Mr and Mrs S' insurer in the first instance. And if a further dispute then arises about the cost of repairs, and whether that does or doesn't meet the policy excess for a valid claim (or any other reason), Mr and Mrs S would be free to raise a new separate complaint about that, and/or obtain their own expert reports.

It's clear this claim has been ongoing for a considerable period of time. It was firstly declined on the basis of a rise in water table being excluded, which Accredited already accepts wasn't the case, then declined based on the solum not being part of the buildings. And for the reasons outlined, I don't think that was fair. And having considered everything that's happened, I agree with our investigator that Accredited should also pay Mr and Mrs S £250 compensation for the distress and inconvenience caused here.

My final decision

It's my final decision that I uphold this complaint and direct Accredited Insurance (Europe) Ltd to:

- Deal with Mr and Mrs S' claim subject to the remaining policy terms and conditions (including excesses).
- Pay Mr and Mrs S £250 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 17 March 2025.

Callum Milne
Ombudsman