

The complaint

Mr and Mrs B have complained that their buildings insurer, Chaucer Insurance Company Designated Activity Company ('Chaucer'), unfairly turned down a claim they made on their policy.

Chaucer is the underwriter of this policy i.e., the insurer. During the claim Mr and Mrs B also dealt with other businesses who act as Chaucer's agents. As Chaucer has accepted it is accountable for the actions of its agents, in my decision, any reference to Chaucer includes the actions of the agents.

What happened

I issued a provisional decision regarding this complaint earlier this month. In that decision I said that I was considering upholding the complaint and asking Chaucer to cover an escape of water claim made by Mr and Mrs B in line with the remaining terms and conditions of their policy. I also thought it should compensate them for an alternative accommodation claim they would have been able to make as well as trace and access costs they might have incurred. I also thought it should pay them interest plus £200 compensation for the distress and inconvenience it caused them. An extract from my provisional decision follows:

"In November 2023 Mr and Mrs B made an escape of water claim on their policy after they discovered that the floor in a storage room which was next to their bathroom was wet. They called a plumber who said a bath waste pipe had detached from its elbow which meant that water from the bath was going into the substructure area causing damage and rot. The plumber also found that a badly fitted isolation valve was leaking behind the wash basin pedestal leading to corrosion of the pipework as well as floor damage.

The plumber also raised concerns with the quality of the installation of the bathroom. He said that the hand basin and the toilet cistern had been "siliconed" onto the wall rather than screwed on and tiles had been laid on top of existing tiles. He added that the bath waste pipe was incorrectly installed and did not have the necessary "drop" which could lead to blockages. He also said that the toilet pan screws had completely rusted due to the wood rot. The plumber felt there was a high risk of causing further damage when trying to remove the existing suite to refit the floor.

Mr and Mrs B provided the plumber's report to Chaucer who responded around a week later and referred them to an exclusion within their policy which says that it will not cover damage caused from poor or faulty workmanship. It asked Mr and Mrs B who installed their bathroom suite and when.

Mr and Mrs B said that the bathroom suite was already there when they moved in in 2003. They said the only change they made over that period was to install a new shower over the bath six years earlier. They added that they were unaware of the various issues listed by the plumber and felt it would be unfair for Chaucer to reject their claim.

Chaucer declined the claim once again and said that the policy didn't cover damage caused by wear and tear, gradual deterioration or any other gradually operating cause. It added that from the evidence provided by Mr and Mrs B, the damage had been going on for some time.

Mr and Mrs B replied to say that the poor workmanship relating to the cistern and wash basin was unrelated to the escape of water claim. They added that the damage could have occurred during the seven months they had their policy with Chaucer bearing in mind the large amount of water that must have escaped from the pipe over that period.

Chaucer issued a final response letter and maintained that the claim was declined due to lack of maintenance, faulty workmanship, poor installation and gradually operating causes.

Mr and Mrs B then brought their complaint to our organisation. They said they spent around £9,000 to have their bathroom repaired. They added that they have a small child and were severely inconvenience by not being able to use most of the bathroom while Chaucer deliberated on the outcome of their claim. Mr and Mrs B said they wanted to be reimbursed for their costs plus interest.

One of our investigators reviewed the complaint and initially decided that it shouldn't be upheld for the reasons Chaucer had provided. Nevertheless, upon receipt of further information from both parties he thought the complaint should be upheld. Our investigator said he didn't think the damage was due to poor workmanship as there was not enough evidence in support of this allegation or that it related to the cause of the claim i.e., the disconnected pipe and leaking valve. He also thought it was plausible that the leak started during the period of cover and didn't think that Mr and Mrs B should have been aware of it sooner. He asked Chaucer to reimburse Mr and Mrs B for the cost of the repairs plus interest.

Chaucer disagreed and asked for an ombudsman's decision. It said there was no requirement for Mr and Mrs B to have been aware of the damage in order for it to decline the claim.

The matter was then passed to me to decide.

What I've provisionally 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.

Mr and Mrs B's policy includes cover for loss or damage to their home due to the escape of water. The policy also says that Chaucer may refuse to pay a claim or reduce the amount of any payment if the building has not been maintained in a good state of repair. The policy also excludes any loss or damage caused by, among other things, wear and tear, gradual

deterioration or any other gradually operating cause.

The only expert evidence available is the estimate provided to Mr and Mrs B by the plumber who initially attended their property and said the damage was caused by the detached waste pipe and the valve. Based on this evidence, it seems Mr and Mrs B's claim relates to an insured peril i.e., an escape of water. So, the policy should cover them for the damage these leaks caused, subject to any policy exclusions.

The waste pipe

Aside from the pipe detaching, the plumber said it was also incorrectly installed and that this could have led to blockages. Mr and Mrs B said they never had any blockages and I have no reason to doubt them, nor have I seen any evidence to the contrary. Nevertheless, even if the pipe was incorrectly installed, I don't think this was relevant to the leak and the plumber didn't say that the pipe had become detached due to poor installation.

I am also not aware of an exclusion within the policy which relates to poor workmanship when it comes to escape of water claims. So, I don't think Chaucer can decline the claim based on poor workmanship.

Chaucer also said that the claim was excluded due to a gradually operating cause and because the issue with the pipe was going on for some time. There is no expert evidence, as far as I am aware, to say how long the leak was going on for. Mr and Mrs B have argued that rot can occur very quickly in certain conditions including when it involves moisture and hot water.

Even if the damage was happening gradually, we wouldn't say that it was fair and reasonable for an insurer to rely on this exclusion unless it could show that the insured should have been aware of the damage occurring. Mr and Mrs B said they first became aware there was an issue when they went into the storage room next to the bathroom and found it to have a musty smell. They then became aware that the carpet and floor were wet, after taking everything out of the room.

Bearing in mind the above, on balance, I don't think Mr and Mrs B should have been aware of the issue earlier. As far as I am aware there was no other indication that there was a leak for example any dampness in the bathroom. There was also lino flooring in the bathroom which, in my view, would have made it harder for Mr and Mrs B to be aware of the leak.

Chaucer also said that Mr and Mrs B admitted to failing to maintain the bathroom because they had minimal work done to it over the 20 years they have lived at the property. As far as I am aware this wasn't the cause of the pipe detaching so, again, I don't think Chaucer can rely on this as a reason to exclude the claim. Furthermore, maintenance wouldn't necessarily involve building work so just because Mr and Mrs B didn't redecorate or renovate the bathroom doesn't necessarily mean they failed to maintain it.

The valve

In relation to the leaking isolation valve, again, I don't think Chaucer can decline the claim due to poor workmanship as there is no relevant exclusion that would apply to this claim.

From what Mr and Mrs B said the damage this caused was minimal and this, coupled with the fact that the valve was behind the wash basin pedestal, would have made it hard to spot. So again, even if this leak was going on for some time, I don't think Mr and Mrs B would have been aware of it.

Chaucer also said there was poor workmanship overall as the cistern and wash basin were not screwed onto the tiles, there were tiles on top of other tiles etc. But as none of these issues was the cause of the damage, I don't think it can rely on this as a reason to decline the claim overall.

As I don't think it is fair and reasonable for Chaucer to rely on the exclusions it has referred to and as I think there was damage caused due to an insured peril I think it should cover the claim that relates to the detached waste pipe and the valve in line with the terms of the policy. This would include covering an alternative accommodation claim Mr and Mrs B would have been able to make while the repair work was being carried out as well as trace and access costs.

Having said the above, I think Chaucer should only be responsible for any damage that resulted from the leak caused by the disconnected waste pipe and the leaking valve. I understand that Mr and Mrs B may have replaced their bathroom suite as well as having other necessary repairs done, for example, replacing the joists and floorboards. If the leaks didn't cause any damage to the bathroom suite or if replacing the suite wasn't necessary, I don't think Chaucer should be responsible for those costs as this would constitute betterment i.e. it would potentially put Mr and Mrs B in a better position than the position they were in before the escape of water claim. Chaucer may review Mr and Mrs B's claim along with its agents to decide which damage is related to the leaks and which, if any, isn't.

Mr and Mrs B said that Chaucer took a long time to make a decision which caused them a lot of distress. From what I have seen, Chaucer made a decision not to cover the claim early on and relayed this to Mr and Mrs B without delay so I am not minded to award them compensation for this. Nevertheless, I do think that Chaucer has unfairly declined the claim which would have caused Mr and Mrs B a certain amount of inconvenience particularly as they had to arrange and pay for the repairs themselves. I also note they weren't able to use their bathroom fully until the repairs were done, which would have been even more difficult with a young child in the house. I think Chaucer should pay them £200 compensation for the distress and inconvenience this caused them."

Both parties responded to my provisional decision. Mr and Mrs B said they never sought to make any financial gain or put themselves in a position of betterment. They provided a schedule of their total expenditure showing, in their view, how this should be allocated between Chaucer and themselves. They also provided invoices in support.

Our investigator responded to Mr and Mrs B and said he would provide this to Chaucer to consider but explained that I wouldn't be commenting on the individual expenses and how they should be apportioned in my final decision. This is because we are not buildings experts so this is something Mr and Mrs B would have to liaise with Chaucer about.

Our investigator provided Chaucer with Mr and Mrs B's evidence and invited its comments to those and to my provisional decision.

Chaucer responded to say that it wasn't able to consider the floor element due to it being caused by wet rot which isn't covered under the policy. It said wet rot occurs when excess moisture is present in timber over long periods of time and this indicates that the leak had been going on for a period of time.

Chaucer added that the claim was declined due to gradually operating cause. It said this was clear due to the black mould on the bath silicone which would have allowed some water to splash over the sides of the bath and add to the leak. It didn't agree that Mr and Mrs B wouldn't have been aware of the leak earlier and said that Mr and Mrs B's plumber's evidence which says that the toilet pan's floor screws had completely rusted due to wood rot should have alerted Mr and Mrs B to the fact that there was a leak which was going on for some time. It also said it was unreasonable for me to say I have no reason to doubt Mr and Mrs B saying that there were never any blockages as a result of the waste pipe's faulty installation without supporting evidence.

Chaucer also referred to one of its internal emails which cited the poor workmanship mentioned by Mr and Mrs B's plumber and specifically the badly fitted isolation valve, the waste pipe being incorrectly installed, the cistern and the wash basin not being screwed onto the wall but attached using silicone etc. In that email Chaucer said that the damage was happening over time as evidenced by the rusting screws and the black mould around the bath as well as the rot. It argued that this also supports that Mr and Mrs B failed to maintain the bathroom.

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.

Chaucer says that it won't cover the floor element of Mr and Mrs B's claim as the floor was damaged by wet rot which is excluded under the policy. As I said in my provisional decision Chaucer should settle the claim in line with the remaining terms and conditions of the policy. And as our investigator explained in this decision, which is only about the original complaint which was whether Chaucer should have covered the claim or not, I will not be considering which costs should be covered and which shouldn't be. This is something for the parties to liaise about. And as I said in my provisional decision they can do so with the help of their agents or other experts.

Chaucer doesn't agree that Mr and Mrs B wouldn't have been aware of the leak sooner as I said in my provisional decision. It says there would have been other indications that could have alerted Mr and Mrs B to it earlier such as the black mould around their bath and also the rusted toilet screws. As I said in my provisional decision, the plumber said that the leak was caused by the detached waste pipe mainly and also the leaking valve. The plumber didn't say it was caused by bath water going over the edges of the bath. So, I don't think the presence of black mould would, on balance, have alerted Mr and Mrs B to the presence of such a large leak.

In relation to the rusted toilet pan screws, again, I am not persuaded this was enough to have alerted Mr and Mrs B to such a large leak. Also, as far as I understand the leak was underneath the bathtub not the toilet, so it was in a different location.

Chaucer didn't think it was fair that I agreed there hadn't been any blockages without seeing any evidence. As I said in my provisional decision, even if there had been blockages, this isn't the reason for the leak so I don't think Chaucer can rely on this to turn the claim down. And in relation to Mr and Mrs B failing to maintain the bathroom, as I said in my provisional decision simply the fact that they hadn't redecorated or refurbished it doesn't necessarily mean they failed to maintain it.

The rest of my findings are as they were in my provisional decision and now form part of this, my final decision.

My final decision

For the reasons above, I am upholding this complaint. Chaucer Insurance Company Designated Activity Company should cover Mr and Mrs B's claim for damage caused further to the escape of water from their detached bath waste pipe and leaking isolation valve in line with the remaining terms and conditions of the policy including any applicable policy limit and excess. It should also compensate them for an alternative accommodation claim they would have been able to make while the repairs were being carried out and any trace and access costs they incurred. This is subject to Mr and Mrs B providing evidence of the work done including any estimates and invoices.

Chaucer Insurance Company Designated Activity Company should also pay 8%* simple interest per year on the amount it pays Mr and Mrs B from the date they paid for the repairs including trace and access costs to the date it pays them back.

Chaucer Insurance Company Designated Activity Company should also pay Mr and Mrs B £200 for the distress and inconvenience it caused them. It must pay the compensation within 28 days of the date on which we tell it Mr and Mrs B accept my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8%* a year simple.

*If Chaucer Insurance Company Designated Activity Company considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs B how much it's taken off. It should also give Mr and Mrs B a tax deduction certificate if they ask for one so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 28 March 2025.

Anastasia Serdari
Ombudsman