

## The complaint

Mr M's complaint is about the rejection of a claim made under his home insurance policy with esure Insurance Limited trading as Sheilas' Wheels.

## What happened

In January 2024, Mr M returned home after being away to find water coming through a ceiling beneath an area of flat roof.

Mr M contacted esure to make a claim for the damage to his property. esure sent a surveyor just over two weeks later. I understand it was initially assumed it was rainwater getting through the roof but Mr M says he noticed water leaking at different times and it did not seem to be related to the weather.

The surveyor said there was no evidence of storm damage to the roof, which was in poor condition, so there was no cover under the storm section of the policy. Mr M says he told him however that there would be cover under the *"escape of water"* section.

esure arranged for leak detection to be carried out. It said the contractors did not find a leak within the property and that the damage was likely due to wear and tear of the roof and as such was not covered.

Mr M was unhappy with this and arranged for his own private contractor to look at the roof. Mr M said the leak was found to be from an air conditioning condensate pipe, which he had fixed for £50. Mr M sent this information to esure.

However, esure still did not agree the claim was covered. It said the air conditioning unit is situated on the flat roof and if water is leaking from the condensate pipe above the roof felt, it is only able to penetrate the roof and damage the ceiling below because the flat felt roof is in poor condition due to wear and tear. It also said the surveyor had noted similar water damage to another part of the same ceiling away from the air conditioning unit, which indicates the poor condition of the flat felt roof; and the extent of black mould on the walls and ceilings suggested that the water had been penetrating the roof for some time and no action taken to mitigate the damage.

esure says the policy provides cover for sudden and unforeseen events that cause escape of water and, in this case, the evidence is that the damage has been caused gradually over time, as a result of general wear and tear of the roof.

As esure did not change its position on the claim, Mr M referred the matter to us. Mr M wants the claim met and also complained about esure's handling of the claim.

Mr M says esure did not look at the claim objectively and has used excuses to refuse the claim. Mr M has made a number of points in support of his complaint. I have considered everything he has said and have summarised his main points below:

- esure's contractors said they'd need scaffolding to look at the roof properly but esure

- rejected the claim without any proper inspection.
- The surveyor said there was wear and tear to the flashing on the right side of the roof but the leak was on the other side. esure said it assumed the left side would also be in poor condition but there is no evidence of this.
  - He was only away for a few weeks, so the damage cannot have been gradual as esure says.
  - And as he was away for a few weeks, he could not have taken steps to mitigate the water damage, as he was not aware of it until he returned.
  - The damage was not caused by rainwater ingress but the air conditioning unit condensate pipe leaking, which was not caused over time.
  - He asked for photos to prove the wear and tear but esure has not responded to this request.

One of our Investigators looked into the matter. He did not recommend the complaint be upheld, as he was satisfied that esure was entitled to reject the claim, for the reasons it did.

Mr M does not accept the Investigator's assessment, so the matter has been passed to me.

On 22 January 2024, Mr M made a second claim for storm damage to his roof after finding tiles had fallen onto his driveway. esure rejected that claim as well. The complaint about this second claim will be dealt with separately. This decision is only addressing the complaint about the first claim made in early January 2024.

### **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.

Mr M's policy provides cover for various events that might cause damage to his home. esure considered whether there might be cover under the section that provides cover for storm or flood. However, it said there is no evidence that the roof had been damaged by a storm, so the claim was rejected under this section of cover. I think that was reasonable and note Mr M does not dispute this.

Mr M says that the leak did not seem to coincide with bad weather. esure therefore considered whether there would be cover for the claim under the section of the policy that provides cover for "*escape of water*" from pipes and appliances as well as "*trace and access*" work required to find and repair a leak.

The relevant section of the policy says:

*“Escape of water/burst pipes*

*What is covered?*

*We will pay for loss of or damage to Your Buildings or Contents as a result of water escaping from water tanks, pipes, fixed equipment, any domestic appliance or fixed heating systems, or as a result of water freezing in water tanks, equipment or pipes.*

This section of cover is subject to terms and conditions, including the following exclusions:

*“What is not covered?*

*We will not pay for loss or damage ...*

- *caused by a gradually operating cause*
- *to the tank, pipe or installation itself if caused by normal wear and tear”.*

The general exclusions section of the policy also says that:

*“We will not pay for loss, damage or any liability resulting directly or indirectly from:*

*Wear and tear*

- *wear and tear*
- *loss or damage as a result of the lack of maintenance*
- *loss of value over time; or*
- *loss or damage that happens gradually over time (for example, loss or damage as a result of wet rot or dry rot, or loss resulting in wet rot and dry rot, rusting, corrosion, the affects of light or the atmosphere, damp, condensation, fading, moths, vermin, birds, insects, fungi or other gradual deterioration).”*

It is for Mr M to establish his claim, so in this case he is required to establish it is more likely than not that the leak was caused by *“water escaping from water tanks, pipes, fixed equipment, any domestic appliance or fixed heating systems”*. Therefore if he can establish the leak is from the air conditioning unit, this would on the face of it mean the claim falls within this section of cover.

However, this cover is also subject to various terms and exclusions, as set out above, including in relation to any *“loss, damage or any liability resulting directly or indirectly from: • wear and tear • loss or damage as a result of the lack of maintenance”*. Wear and tear would be considered to be gradual deterioration over time.

If esure wants to rely on these exclusions, it is required to establish it is more likely than not that the loss or damage is a result directly or indirectly from wear and tear or lack of maintenance.

esure arranged for a leak detection to be carried out. The contractor’s report says they could not find any leaking pipe within the property and that the water was coming through the roof. They did recommend scaffolding should be put up so they could survey the roof, or get a roofer to *“flood and spray”* test the flat roof. I note this was not done but I do not consider that this means the claim should be met. I will explain why.

As stated, the contractors did not find any evidence of a leaking pipe inside the property.

Mr M says he paid for a contractor to access the roof who found the condensate pipe from the air conditioning unit was leaking and repaired it. I have looked at the photos Mr M submitted that show a small amount of water on the roof by the air conditioning unit and the condensate pipe, which appears to discharge on to the roof.

There is no picture that shows any damage to that pipe and Mr M has not provided any report, invoice or other confirmation of what his contractor found and the work done. There is therefore no reliable evidence that the air conditioning unit condensate pipe was leaking.

However, even if I accept that the condensate pipe was leaking and the water that was damaging the internal ceiling was from the condensate pipe, I do not think this means the claim should be met. I will explain why.

esure says the water is therefore leaking through the roof. esure says the water would not be causing damage claimed for inside the property but for the fact the roof is not in watertight condition and that this is a result of wear and tear and would have happened gradually over time.

I have considered all the evidence provided regarding this.

Mr M says the leak is clearly shown as coming from inside the roof and that the condensate pipe emanates from the roof. However, the photos do not support that the leak is below the roof felt, rather than above the roof. As stated, the photos provided show the water which Mr M says is from the condensate pipe settled on the roof felt. There is no evidence, as far as I am aware, that there was a leak at any other part of the pipe internally below the roof felt.

As Mr M has said, part of the roof is obscured by the air conditioning unit but the visible parts show deterioration to the roof and the flashing. While I note that Mr M says the damaged flashing is away from the area affected by this leak that he is claiming for, this does indicate the general condition of the roof.

Mr M also says the roof can't be faulty, as otherwise it would leak consistently whenever it rains and he says it doesn't. However, having looked at the internal photos in the report (which were taken during the inspection on 25 January 2024, so only around three weeks after the claim was submitted) there are several that show significant water damage – staining, mould and cracks to the area under the air conditioning unit.

I also note from the photos provided that there is significant internal water damage to other parts of the room below the flat roof, that are not beneath the air conditioning unit. There is no independent evidence that the other areas of damage are not related to the condition of the roof and as it is not directly under the unit, it does indicate that the roof is not watertight.

Mr M said in one submission to us that he had been away from early December 2023 and esure's report was not done until 25 January 2024, so the damage could have been caused over that almost two month period. However, I note that in the initial claim report it records that he said he had been away from 25 December 2023 to 6 January 2024, when he discovered the leak.

In any event, even if I accept Mr M was away from early December 2023, the photos show damage that it is difficult to accept was likely to have happened in a matter of weeks, even a period of eight weeks.

Having considered everything carefully, the evidence supports that the roof is not watertight, as a result of general wear and tear, and that, even if the water is from the condensate pipe, it is reasonable for esure to conclude that it is only getting through the roof because of wear and tear to the roof. I therefore think esure is entitled to rely on the general exclusion for claims caused directly or indirectly by wear and tear.

In addition to this, the policy excludes escape of water damage that has happened gradually over time. In this case, for the reasons given, I do not think the damage to the ceiling and room below happened suddenly, or even in a matter of weeks. The evidence is that the roof was leaking and, causing damage to the room below for some time, which would likely have been apparent to Mr M. I think therefore that esure would also be entitled to rely on the exclusion for gradually operating cause.

Having considered everything carefully, I am not persuaded that esure has acted unfairly and I think it is entitled to reject this claim on the basis that the damage has not been established as being due to an escape of water in the property; and even if this is incorrect, esure is entitled to rely on the exclusions for damage that is directly, or indirectly the result of wear and tear of the roof and a gradually operating cause.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 July 2025.

Harriet McCarthy  
**Ombudsman**