

The complaint

Mrs F and Mr F, with the assistance of their representative, have complained that AA Underwriting Insurance Company Limited has unfairly declined their claim, following an escape of water to their property.

What happened

A new policy was taken out with AA via an online comparison site on 20 November 2024, with a policy start date of the 18 December 2024.

AA was notified of an escape of water on 25 January 2025 by Mrs and Mr F's daughter. AA provided assistance with the claim but had some concerns about the occupancy of the property and on 24 February 2025, it wrote to Mrs and Mr F to notify them it was declining to cover the claim.

AA said the policy had an exclusion within it which said cover for escape of water would not be provided if the property was left unoccupied for more than 30 consecutive days. It said it could see from the information provided, that Mrs and Mr F had been out of the country from 21 November 2024 and they were not due to return originally, until 5 February 2025. The total length of their trip was 76 days. It was satisfied at the time of the notification of loss, the property was unoccupied and the unoccupied exclusion would be applicable.

It also said if it had been told after the policy was in place that the property was to be unoccupied for more than 30 days, a number of endorsements would have been applied to the policy which placed additional obligations on Mrs and Mr F. These would have needed to be complied with to ensure the escape of water cover remained in place.

AA recognised that Mr F is a vulnerable consumer and that dealing with a claim of this nature when no cover is in place will be extremely difficult, with both the inconvenience and cost. As a good will gesture it paid £10,000 to support Mrs and Mr F with the costs of the damage and didn't seek to recover the costs of the drying work it completed between the notification of loss and the claim decline.

Our investigator looked at this complaint and didn't think AA had made an unfair claim decision. They felt the policy exclusion was fairly applied, even when considering if the date of the escape of water was earlier than the notification of loss date. They said they were persuaded by information provided by Mrs and Mr F's representative, that the escape of water likely occurred on 14 January 2025, when the houses alarm system was triggered and this could have been from the ceilings collapsing because of the water ingress. But regardless of whether the escape of water was on the 14 or 25 January 2025, they were satisfied the property had been unoccupied for more than 30 days.

Our investigator didn't think the actions taken by Mrs and Mr F's daughter, to visit the property at different times when her parents were away was enough to say the property was lived in. In the absence of this, it was fair to say it was unoccupied for more than 30 days, with Mrs and Mr F being away from 21 November 2024.

Mrs and Mr F didn't agree with the investigators outcome and asked for the complaint to be referred for 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.

I've decided not to uphold this complaint, I appreciate this will be extremely disappointing for Mrs and Mr F, but I'll explain why I think AA has fairly applied the policy exclusion.

I note from the calls and information on this case that Mrs and Mr F's representative asked if the ombudsman would call to discuss there case ahead of issuing a decision. Having listened to the calls and read all information on the case, I am satisfied that I have all the information I need to be able to reach a decision on the complaint. So, I do not have a need to call and discuss anything further.

There is no dispute that there has been an insured event at Mrs and Mr F's property, with there being a clear escape of water from the burst pipe in the attic causing extensive damage throughout. What needs to be determined is whether AA has fairly relied on a policy exclusion when declining to provide cover.

Our investigator and AA, within its repudiation letter have set out the relevant policy term. This is set out within the policy and highlighted on the Insurance Product Information Document (IPID) where the following is said under the heading, *What is not insured*:

"Theft, attempted theft, malicious damage and escape of water are not covered whilst the home is left unoccupied or unfurnished for more than 30 days"

There is also a section within the policy documents which sets out the obligations on the policyholder and this includes an obligation to notify AA if the property is left unoccupied for more than 30 consecutive days.

The policy defines unoccupied as: "*When your home has not been lived in by **you** or a person authorised by **you** for more than 30 consecutive days.*"

The question on whether the property was not lived in by Mrs and Mr F for more than 30 consecutive days is a straightforward one to answer. The travel documents show they departed on 21 November 2024 and were not due to return until 5 February 2025, so after the 22 December 2024, they had not lived in the property for more than 30 days.

It is the occupancy of the property and whether it was unoccupied for more than 30 days which makes the policy exclusion relevant, not whether a loss happened within 30 days. So, whether the escape of water happened on the 14 January or the 25 January when the loss was discovered, doesn't change this. But I agree with our investigator, that from the information provided by the alarm company, its likely the date of loss could have been on or around the 14 January and not the 25 January 2025.

What is less clear is whether a person authorised by Mrs and Mr F had been living in the property. If someone had been living in the property, there would have been no need for Mrs and Mr F to notify AA that it was not being lived in.

Mrs and Mr F's daughter has been checking in on the property when her parents were away. They feel with there being no definition of 'lived in' that it is unreasonable to say someone needs to be regularly staying overnight at the property and when having made a number of

visits to it between the date of Mrs and Mr F departing for their trip and the damage being noted, the unoccupancy exclusion cannot be fairly relied on.

The phrase 'lived in' is something which is rarely defined and this Service often needs to think about whether it is fair to say a property is, or isn't lived in. There is a general expectation, that 'lived in' means to use a property for carrying out normal living activities such as cooking, washing and sleeping and doing so sufficiently regularly – probably at least once a week.

Mrs and Mr F's daughter did visit the property a number of times between 21 November 2024 and 25 January 2025 but this wasn't as often as weekly. And from the information provided, the purpose of the visit was to check on the house with activities like watering plants being completed and checking each of the rooms. With this in mind, I don't think it is reasonable to say normal living activities were being completed. Instead, the activity of checking in on the house was being completed.

AA has recognised that Mrs and Mr F are vulnerable consumers and under its obligations set out in the Insurance Code of Business Sourcebook (ICOBS), has taken steps to make sure it isn't unreasonably declining the claim. AA has shown that had it been notified the property was unoccupied at the time of inception, no cover would have been provided. But with it not declining the claim because of any misrepresentation with the policy at inception, it considered what endorsements would have been applied had it been notified of the property being unoccupied once in place.

I appreciate Mrs and Mr F feel it is unfair to look at the endorsements and obligations of these retrospectively and whether they were being complied with, but I think it has acted fairly when doing this. It was done with a view to see whether the cover could be provided but based on the number of visits to the property and the heating system and how this was left, it hasn't been able to see these would have been met.

As I've set out previously, there was an obligation on Mrs and Mr F to notify AA if the property was unoccupied for 30 days or more. There was no one that could reasonably be said to be living in the property during their trip and they didn't notify AA of this. Overall, I am satisfied that AA has fairly relied on its policy exclusion when declining this claim.

I also think it has acted fairly when making an ex-gratia payment of £10,000 to Mrs and Mr F and not chosen to seek to recover the costs it incurred with the initial drying work it completed at the property. This is something it didn't need to do under the policy but it has done this to recognise the impact of a claim of this nature and the cover not being in place. It is a commercial decision it has made and not something I could have directed it to make, when the policy exclusion was fairly relied on. And I think it has offered a good level of support and understanding when making this decision.

I'm sorry the outcome of this complaint is a disappointing one for Mrs and Mr F and their family. But for the reasons I've set out above, I think AA has made a fair claim decision when applying the policy terms and exclusions.

My final decision

For the reasons I've set out above, I do not uphold Mrs F and Mr F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F and Mr F to accept or reject my decision before 28 January 2026.

Thomas Brissenden
Ombudsman