

The complaint

Ms R complains that Intact Insurance UK Limited have unfairly declined her claim for damage caused to her cellar from leaking drains.

What happened

Ms R held buildings and contents insurance with Intact.

In November 2021 Ms R found water “gushing” into her cellar. In January 2022 Ms R’s home emergency provider attended and said there was no leak, and it was a rising water table issue.

During 2022 there were further visits by the home emergency provider and the local water authority who did various dye tests and checks on the pipes. The home emergency provider eventually identified an issue with the waste drain at the front of the house and mended it. The home emergency provider then suggested that Ms R contact her home insurer for trace and access to be performed.

In September 2022 Ms R’s insurer Intact agreed to trace and access, and their contractor came out.

They identified the ingress was waste water but as there was no issue identified with Ms R’s drains, and they suggested it may be from neighbours or from the drains in the road.

Between October 2022 and September 2024 water continued to come into the cellar, with a bad smell, and numerous further tests were conducted on Ms R’s drains and those of her neighbour. In October 2023 a positive dye test resulted in contractors lining Ms R’s main drain, and further tests also resulted in lining her next door neighbour’s drain. Both of these drains carried waste water and ran along the alley between the houses, directly adjacent to the cellar wall which was affected.

In September 2024 a further open joint was identified in the kitchen drain of the neighbouring property and was repaired which finally ended the ingress of water.

Intact declined the claim saying that they had undertaken many tests and repairs but that the ingress wasn’t related to an insurable peril but to a gradual deterioration of the pipes which was excluded under the wear and tear exclusion in the policy.

They also said that as the cellar wasn’t tanked, they wouldn’t be paying for a pump to be installed or covering any damage.

Ms R complained but Intact rejected the complaint, and so Ms R brought her complaint to us.

One of our investigators looked into the complaint and she thought that the claim was covered under the accidental damage peril and directed that the claim be settled.

Intact disagreed with our investigators view, and so the case came to me to review.

I issued a provisional decision on the complaint. My provisional findings were as follows:

I have to decide whether Intact have applied the terms of the policy and acted fairly when declining the claim. Having done so I'm proposing to uphold this complaint but for slightly different reasons to the investigator, and I'll explain why.

What is the most likely cause of the water in the cellar?

Although this ingress of water into Ms R's cellar was a longstanding issue by the time it was resolved (2021 – 2024), the house is over 100 years old, and until November 2021 Ms R reports that it had not suffered with any issues. The cellar was used for storage, and photographs provided show cardboard boxes and bikes in the cellar, indicating that it was dry enough to safely use for storage and would likely have been in regular use. I also note that the mains fuse box, gas mains and meter and a radiator are all in situ down there.

Ms R reports that she found water "gushing into" the cellar in November 2021, which implies a sudden onset of the issue. Video shows that water is indeed pouring in from a hole in the wall into a bucket, rather than being a pervading damp issue widespread across the wall or rising up from the ground as would be expected with a high-water table.

Although it has taken some considerable time to identify the source of the water, the reports all confirm that it is waste water that is coming into the cellar, rather than ground water or fresh water. This is confirmed in various reports by the presence of ammonia, fly larvae and soap suds as well as at least one positive dye test, and so this, along with the fact that the repairs to the neighbour's waste pipes have stopped the ingress of water, indicates that the most likely cause of the ingress is leakage from the waste pipes which run alongside the property adjacent to the wall that has suffered ingress, carrying waste water away from the properties.

Is damage to the waste pipes and cellar covered under the policy?

Under the buildings policy at p26 it says that cover is provided for

"Accidental damage to your buildings",

but excludes:

"Accidental damage caused to drains and pipes providing services to or from your home."

It also covers:

"Accidental breakage of drains and pipes used to provide services to or from your home which your family is legally responsible for."

Accidental damage is defined in the policy as "Sudden, unexpected and visible damage which hasn't been caused on purpose."

Accidental breakage isn't defined but is likely to be more restrictive than accidental damage.

Although I'm satisfied that the water has most likely come from the waste pipes, I haven't been provided with any evidence of physical damage caused to the pipes. There is reference to an open joint in one report and the possibility of root damage but there is no

clear evidence before me. In any event, accidental damage to pipes is clearly excluded from cover.

The policy also only covers accidental breakage of pipes that provide services to and from Ms R's home, not her neighbours. So, if the main leaking pipe belongs to the neighbouring property, then repair of the pipe isn't covered there either.

However, I consider that the damage caused to the cellar by the ingress of water is covered under "accidental damage to your buildings" term regardless of the position with the pipes. Ms R's evidence is that the water came in suddenly, flooding the cellar and causing damage to the floor, walls and the stairs. This can be described as "Sudden, unexpected and visible damage which hasn't been caused on purpose", and so within the terms of the policy. Intact were therefore wrong to decline the claim.

And so, as I consider that damage to the cellar is covered, I'm directing Intact to reinstate the claim and prepare a scope of works to take into account any damage caused by the original ingress of water, and any subsequent ingress caused through the failure to quickly identify and deal with the leak. This will include cleaning and sanitisation of the area affected, replacement of the steps and any other work required to restore to pre loss condition. They should then settle the claim for any loss in accordance with the remaining terms.

I do accept that during the preparation of the scope Intact may identify areas of damp in the cellar which are unconnected to this ingress of water, given that the cellar is below ground level and also below any damp proof course. I wouldn't expect Intact to remedy any unrelated damp, but they will need to bear in mind that any repair to areas damaged by the ingress will need a lasting and effective repair.

If there is disagreement over the scope once the report is prepared, Mrs R can raise a separate complaint about this.

I appreciate that Intact have undertaken various investigations to the pipes but they have ultimately declined the claim relying on wear and tear to the pipes, which for the reasons above is not the right approach, and so for the distress and inconvenience caused to Ms R by this, I propose to make an award of £300.

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 have received responses from both parties.

Ms R has accepted the decision but has advised that she has paid £2704.40 for remedial work to the cellar while awaiting the decision to stop continuing deterioration and has asked if this should be covered by Intact.

Intact have said that the cellar is historically damp and asked for confirmation that they need only cover the cost of the cellar stairs and a clean and sanitise.

At this stage I can't confirm either of these requests.

My decision here is about Intact's decision to decline the claim. I have decided that for the reasons above Intact have incorrectly declined the claim, and that the interior damage caused by the ingress of water should be covered under the accidental damage part of the policy.

However, I don't have sufficient information to decide exactly which internal damage is covered, which is why I have directed Intact to revisit and prepare a scope of works "taking into account any damage caused by the original ingress of water, and any subsequent ingress caused through the failure to quickly identify and deal with the leak."

It will be for Intact's surveyor and loss assessor to consider what damage has been caused by the escape of water and what is needed for a lasting and effective repair. This will include cleaning and sanitisation and replacement of the steps but will likely also include other damage. I appreciate that the cellar may have some historic damp, that doesn't necessarily mean that all water damage is historic and unrelated to the escape of water.

In respect of the work already undertaken by Ms R's contractors, I can't say at this stage whether the work undertaken is something that would have been covered by the scope, and so I can't direct payment. I also haven't seen a breakdown of this work, but I am sure Ms R's contractor will be able to provide a breakdown to the surveyor and loss assessor, which can take this into account in their scope.

If they agree that some or all of the work done is work that they would have included in the scope, then these costs will inevitably be covered.

Once the scope has been prepared and an offer is made to Ms R for what Intact consider is insured works, Ms R will either be able to accept the offer or challenge it and ultimately bring it back to this service if agreement cannot be reached.

And so, for the reasons I have already given, I'm upholding Ms R's complaint in line with my provisional findings.

Putting things right

In order to put things right, Intact need to

- Reinstatement the claim and prepare a scope of works for reinstating the cellar to pre loss condition including cleaning and sanitisation, replacement of the steps and any other work required. They should then settle the claim according to the scope, in line with the remaining terms and conditions.
- Pay Ms R £300 for the distress and inconvenience caused by the decline of the claim.

My final decision

My final decision is that I'm upholding Ms R's complaint about Intact Insurance UK Limited and directing them to put things right as above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 9 March 2026.

Joanne Ward
Ombudsman