

## The Complaint

Mr L and Miss O are unhappy with the decision made by AA Underwriting Insurance Company Limited (AA) following a claim for accidental damage to their swimming pool.

Mr L and Miss O are both parties to this complaint. Mr L has primarily dealt with this service. For ease of reference I have referred to Mr L throughout this final decision.

## What happened

Mr L purchased a home insurance policy. Mr L's policy included cover for accidental damage. The definitions sections of Mr L's policy booklet explained:

*Accidental damage: Unexpected and unintended damage caused by sudden and external means.*

The exclusion section explained the policy would not cover accidental loss or damage caused by 'wear and tear' or 'alterations, repairs, maintenance, restoration, dismantling or renovating.'

In March 2023, Mr L says that he thought that the pool level was slightly lower than it had been. Mr L removed the front fascia of the skimmer basket. During this process, he accidentally ripped the pool liner. Mr L contacted a local contractor that he usually uses for pool repairs (company C). Company C investigated the damage, and provided a quote for the supply and installation of a new swimming pool liner.

Mr L contacted AA to make a claim. AA sent a specialist (company M) to investigate the damage. Company M determined that '*...a repair to the area should be adequate and a viable repair method. The whole pool lining does not need removal / replacement. Only a small area of lining has become unadhered from the pool.*' Company M also noted that '*PH declared he already felt pool was losing water before incident so pool would have had pre-existing issues.*'

AA told Mr L that it wouldn't be paying out for his claim. AA relied on the terms for 'wear and tear' as the reason for declining Mr L's claim. Mr L sought further clarification from company C about its inspection of the pool. Company C commented '*The client undertook a replacement face plate exchange on his existing swimming pool skimmer. Whilst going through the process, he accidentally caused a tear within the existing liner. As the size of the tear is beyond a satisfactory repair, [we] have quoted him for a new replacement liner. [We] can confirm that the existing pool was watertight prior to this accidental damage occurring.*' AA didn't change its decision on Mr L's claim. Mr L referred his complaint to this service. Our investigator recommended that AA reassess the claim without relying on the policy exclusions. Mr L agreed with the investigator's view.

AA said the correct exclusion is the exclusion saying the policy doesn't cover accidental loss or damage caused by 'alterations, repairs, maintenance, restoration, dismantling or renovating.' AA said '*A swimming pool isn't something a lay person wouldn't be able to*

*accurately assess or mitigate any damage occurring to. The insured ripped the pool liner when he removed a face plate whilst investigating an on-going issue.'*

As the complaint couldn't be resolved, it has been passed to me 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.

When we investigate a complaint about an insurer's decision on a claim, our role is to consider whether the insurer handled the claim in a fair and reasonable manner. To decline Mr L's claim, I would need to be satisfied that AA has acted fairly and reasonably in its application of the policy exclusion. And in doing so, I'm not persuaded AA has acted fairly by relying on the exclusion to decline Mr L's claim. I'll explain why.

Mr L has provided evidence from company C supporting his testimony that *'the existing pool was watertight prior to this accidental damage occurring.'* I've carefully considered AA's comments, alongside the report from company M. But I'm not persuaded this evidence indicates any pre-existing damage to the pool.

AA say that the reason for declining Mr L's claim is because of the exclusion for accidental loss or damage caused by *'alterations, repairs, maintenance, restoration, dismantling or renovating.'* AA say the circumstances of Mr L's claim support reliance on this exclusion because Mr L took it on himself to remove a face plate, and the damage happened during this process.

AA say cover shouldn't be provided because of the way the damage happened. AA has referenced Mr L being a lay person, and the low possibility of his actions being able to *'accurately assess or mitigate any damage.'* AA say *'the intention of exclusion is to stop unqualified people damaging their property completing tasks beyond their capabilities'*. But I don't agree that's what Mr L was attempting to do.

I am persuaded that it wasn't Mr L's intention to complete a repair. Mr L doesn't have any professional experience, or knowledge about repairing faults with his pool. And it's evident he called on company C to provide a quote for completing a repair as soon as the damage was known to him. Mr L's actions were to find out what was causing the pool to function in a different way than it usually would. To do this, he removed the front fascia of the skimmer basket.

But I don't agree AA's reliance on the exclusion for loss or damage caused by *'alterations, repairs, maintenance, restoration, dismantling or renovating'* is reasonable, as the evidence doesn't support Mr L was attempting any of these actions. The damage happened whilst Mr L was trying to find out why the pool level was slightly lower than it had been. It's not disputed that he removed the front fascia of the skimmer basket as part of this process, and that's how the damage happened. But having considered the circumstances of the claim, I don't think AA's reasoning for excluding the claim based on Mr L attempting a repair is fair. Given his capacity as a lay person, I think it's more likely that Mr L's actions were a reasonable response to find out why the pool level was slightly lower than it had been. And the damage happened unexpectedly during this process.

The policy is designed to cover *'Unexpected and unintended damage caused by sudden and external means'* and I'm satisfied that on balance, that's what's happened here. Because I don't think AA has shown that a policy exclusion applies, it should reconsider the claim based on the remaining policy terms and conditions.

### **My final decision**

For the reasons given above, I uphold this complaint. AA Underwriting Insurance Company Limited should reconsider the claim based on the remaining policy terms and conditions.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L and Miss O to accept or reject my decision before 31 July 2024.

Neeta Karelia  
**Ombudsman**