

The complaint

Mr M has complained that HCC International Insurance Company Plc trading as Tokio Marine HCC (HCC) declined a claim under his marine insurance policy.

What happened

The background to this complaint is not in dispute. In March 2023 Mr M was told by harbour staff that his boat was taking on water. The staff managed to begin pumping the water out and were bringing the boat onto land when Mr M arrived.

Mr M didn't make a claim at that point, as he didn't identify any damage to the engine. He replaced both pumps with automatic bilge pumps, as the automatic bilge pump had failed unexpectedly.

In July 2023 Mr M discovered the engine had been damaged and then raised a claim with HCC. He provided evidence from the engineer who serviced the engine that water had got in due to a loose transom bolt.

HCC appointed a surveyor who attended and carried out a detailed survey. They concluded the most likely cause of the damage was a gradual build-up of rainwater due to issues with the harbour drains, resulting in rainwater building up on the deck and getting inside the boat through the access hatch.

They also couldn't identify any issues with any of the transom bolts, so concluded that wasn't a contributing factor. They also didn't have access to the bilge pump but considered due to the gradual build-up of water the pump likely got blocked due to debris and burned out, or it was potentially overwhelmed by the levels of water. HCC declined the claim in reliance on a policy exclusion which states:

Your insurance will not pay for loss or damage caused by:

open and/or semi open Craft and/or any other Insured Property on or in the Craft caused by the gradual accumulation of rainwater or snow.

Mr M didn't agree. He explained there weren't any issues with the harbour drains, they were acting as intended and weren't stiff or blocked. He also said that he saw water pouring out of them when his boat was being brought on land. He felt that the reason for the issues was due to the bilge pump failing.

Mr M was unhappy with the decline of his claim and referred his complaint here. Our investigator didn't think that HCC had unreasonably declined the claim. Mr M appealed. In summary he said as follows:

- When he arrived on the slipway the boat was at an angle of approximately 30° elevation and the water was pouring out of the two drains. The rest of the water was pumped out using the manual bilge pump.

- Mr M checked the engine at that stage he checked the dipstick for oil level and assumed no water had got into the engine system. All looked OK when he removed the top cover and he started the engine to make sure it was in working order. It started on the old a battery however he replaced the battery as a precaution.
- In July 2023 Mr M decided to have the engine serviced before putting the boat back in the water in readiness for the summer season he employed a local marine company, I'll call J, to service the engine. During the servicing J said there was a bolt loose in the transom and took pictures. He indicated that this was the most likely cause of the water ingress.
- Mr M refutes there were any issues with the harbour drains or that they were partially blocked. Mr M challenges HCC's report - he says this does not show any blocked drains. He challenges too the surveyor's comment that the flaps were stiff and hard to open. He has provided video footage which shows they work as designed.
- Mr M reiterates that the automatic bilge pump failed – not due to rainwater as the pump is designed to work underwater.

Our investigator put the photographic evidence and representations to HCC. It didn't change its view and maintained that the proximate cause of loss was still considered to be the accumulation of rainwater which is excluded from his policy.

As no agreement has been reached the matter has been passed to me to determine.

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'm aware I've summarised the background to this complaint - no discourtesy is intended by this. Instead, I've focused on what I find are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. I recognise that Mr M will be very disappointed my decision, but I agree with the conclusion reached by our investigator. I'll explain why.

The relevant regulatory rules say that insurers must handle claims promptly and fairly and they mustn't unreasonably reject a claim. So I've looked carefully at the circumstances here to see if HCC has treated Mr M fairly.

On the claim form Mr M explained that it was concluded that the water ingress was from both heavy rains and a partially loose transom engine bracket securing bolt and coincidentally the automatic bilge pump had stopped working. I understand that the boat has two bilge pumps one automatic and one manual. The automatic one had stopped working.

I find that HCC fairly assessed Mr M's claim under the accidental damage section of his policy. It was entitled to rely on the report of the marine surveyor it had instructed. The findings I've set out briefly above. Mr M, who himself is well qualified in marine engineering, vehemently disagrees with the conclusion reached in the report. Again, I've summarised the reasons why above. He has said that he made a mistake in not arranging to be present when the surveyor reported, but he didn't imagine the conclusion would be what it was.

I'm not a marine engineer, my role is to fairly and impartially consider all the evidence and submissions. Mr M has made sensible and persuasive comments. I've considered these with care. And I accept that when he saw his boat being pulled out there was water coming from

the drains. This would seem to undermine the evidence that the drains were blocked. There is also a brief report from the company I've referred to as J, saying a transom screw was loose.

But on balance I find that the evidence in the form of the detailed report from the independent surveyor is more persuasive. No issues were identified with the transom bolts. And in contrast to Mr M's submission, the surveyor found the harbour drains stiff and hard to open. This means on the evidence before me I don't find it was unreasonable for HCC to conclude that the damage to the engine was caused by the gradual accumulation of rainwater.

Mr M recognises that it would have helped his appeal if he had submitted an independent surveyor's report, assuming that it would have supported the submissions that he has made. I do sympathise here because it is apparent, for various reasons, that he wasn't able to locate a surveyor able or willing to report – he lives in a remote location.

Of course it is still open to Mr M to send in further evidence, although I note that he has now replaced the engine and the damaged engine was taken in part exchange. So any surveyor reporting would be somewhat at a disadvantage. Nevertheless if they are able to show that the conclusion reached in the HCC report is incorrect, Mr M should submit this evidence to HCC.

I recognise too that Mr M is disappointed with HCC – he has insured his boat for many years happy in the knowledge that he was covered should he need to make a claim. This, his first claim, has been a great disappointment. He says that the 'whole drama' has cost him around £11,000. It will be of little comfort to Mr M, but had his claim been accepted, the maximum he would have been able to claim for the outboard engine is £5,000, as set out in the policy terms and conditions.

I'm sorry that my decision doesn't bring Mr M the news that he had hoped for.

My final decision

My final decision is that I don't 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 24 October 2024.

Lindsey Woloski
Ombudsman