

The complaint

Mr and Mrs E complain that Highway Insurance Company Limited (Highway) have declined a claim made under their home insurance policy.

What happened

In October 2023, Mr and Mrs E discovered water coming through the plastic cladding attached to their kitchen ceiling and on removal, they found extensive damage underneath.

Mr and Mrs E arranged for a plumber to attend to find and stop the leak, and a builder carried out temporary works to make the rotten ceiling joists safe. Mr and Mrs E subsequently made a claim to Highway, their home insurance provider, for the damage that had been caused to the ceiling and the significantly damaged and rotten joists.

Highway arranged for a surveyor to visit Mr and Mrs E's property, when they visited, repair works were underway. Highway ultimately declined the claim, they said the damage had occurred over time and was most likely due to failed sealant in the bathroom, and damage caused by this is excluded under their policy.

As Mr and Mrs E were unhappy with Highway's claim decision, they approached this service.

One of our investigators looked into things. Initially she upheld the complaint, she said that whilst there were visible issues with the sealant, she thought the damage was likely caused by a leaking pipe rather than the failed sealant, and it wasn't evident until water started coming through the ceiling due to the cladding which was in place.

So, the investigator recommended Highway reconsider the claim in line with the remaining terms, with 8% simple interest added to any cash settlement due, and she also said that Highway should pay £300 compensation.

Highway responded but they didn't agree. They provided additional comments from the surveyor about the damage and lack of pipes in the corresponding area.

The investigator revisited things and ultimately her view of the complaint changed. She said that there was no pipework in the area of the bath, other than the taps which weren't leaking, and there was damage on the wall above the floorboards which wouldn't be present if the leak was from the pipes. So, she said this suggested, as Highway had concluded, that the sealant was the likely main cause of damage in that area.

The investigator said that Highway had said there was another area that had previously been repaired, but she said it was unclear if that was repaired at the same time as discovering the current leak or not. Mr and Mrs E said they didn't have copies of the breakdown of repair work carried out for her to consider whether there was a valid claim for that area.

Ultimately, the investigator said that based on what she had seen, the leaking hot water pipe had likely highlighted existing damage caused by the failed sealant which is excluded under

the policy. She said that it can't be said this was hidden, as the failed sealant would be evident, therefore she didn't recommend Highway do anything further.

Mr and Mrs E didn't agree and asked for a final decision from an ombudsman.

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.

Having done so, whilst I appreciate it'll come as a disappointment to Mr and Mrs E, I've reached the same outcome as our investigator.

Mr and Mrs E say they noticed water leaking through the plastic cladding on their kitchen ceiling. They said that when they removed it, the ceiling partly came down and they discovered further damage to the ceiling underneath and severe rot damage to the joists.

A plumber was arranged by Mr and Mrs E to find and stop the leak, which was concluded to have been from a leaking hot water pipe, occurring over a significant period of time.

Mr and Mrs E's policy has a general exclusion for:

"Your insurer will not pay for:

3. Gradually operating cause

Any loss, damage or liability arising from wear and tear or damage that happens gradually over time."

Mr and Mrs E don't dispute the damage has been occurring gradually over a significant period of time, but they say they weren't aware of this until the leak started coming through the plastic cladding as it was hidden before then.

As a general approach to claims for damage which has been caused gradually, we generally take the view that whilst there may be an exclusion in the policy for gradually caused damage, it might be unfair for an insurer to apply this where the policyholder couldn't have known about the damage occurring and did something as soon as they were aware.

However, the starting point is that an insured event needs to have occurred which caused the damage in the first place.

Mr and Mrs E's policy covers, amongst other things:

"Escape of water

Water that has entered the boundaries of your property by the mains water supply and has, at some point on its journey within your home, escaped from the pipe, tank or appliance that it was in and caused damage to your home."

So, damage caused by a leaking pipe would in principle be considered an insured event. However, Highway's surveyor noted that there was failed sealant surrounding the bath, which was in the same area as the extensive damage including rot damage to the joists below, and there were no other pipes in that area beyond the taps which weren't leaking. So, they concluded the failed sealant caused the gradual damage to occur, rather than a leaking pipe, and instead that highlighted the existing damage caused by the failed sealant.

As outlined, Mr and Mrs E's policy has a wider general exclusion for gradual damage. In addition, under the escape of water policy cover, it also has the following exclusions:

"Escape of water

Your insurer will not pay for:

- *Loss or damage caused by the failure, or lack of grout and/or sealant*
- *Loss or damage to property that happens gradually over a period of time, such as corrosion or rusting, sulphate reacting with any material from which the property is built."*

Having seen the images provided, I find Highway's conclusions persuasive that the likely main cause of damage in that area is the failed sealant around the bath allowing water to penetrate over time, causing significant damage below. Whilst there may have been a leaking pipe, some of the damage was to the wall above that, so I think, on balance, that the leaking pipe has highlighted the existing damage caused by the failed sealant, rather than caused it. And given the sealant had visible issues with it, I think Mr and Mrs E could have, or should have, been aware of the likelihood of damage occurring. I don't think it can be said to have been unforeseen that damage would be caused as a result of the visibly failed sealant. So, I don't think Highway has acted unfairly by applying the gradual damage exclusion, and/or damage caused by failed sealant exclusion, when declining this part of the claim.

Highway also recognised there was damage to another area of the ceiling, below the toilet rather than the bath, but they said it appeared historic. Like our investigator, it's unclear if this was recent and caused by an insured event under the policy. The investigator asked Mr and Mrs E for a breakdown of the damage and works they'd had completed, so she could consider whether an insured event occurred that was covered under their policy. However, Mr and Mrs E said they no longer had the invoices or quotes, and they weren't willing to ask the builder for clarification or to provide further information.

So, like our investigator, based on everything I've seen, I'm satisfied that Highway has fairly declined the claim for damage in the area of the bath by relying on the failed sealant and gradual damage exclusions. And I'm not able to conclude there has been an insured event for any other damage that should be covered under Mr and Mrs E's policy. So, I won't be directing Highway to do anything further at this stage.

However, if Mr and Mrs E are able to provide any other information to support their position that they have a valid claim under their policy, they should provide this to Highway to consider further in the first instance.

My final decision

It's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E and Mrs E to accept or reject my decision before 29 July 2024.

Callum Milne
Ombudsman