

complaint

Mr G's complaint is about a claim for damage to underground pipes that was declined. His insurance policy is provided by Society of Lloyd's (SoL).

background

In December 2016 Mr G noticed that he had problems with his drains and arranged for them to be inspected by a local firm. It identified that there were three stretches of drain that had problems – two feeding from the property into a particular manhole and another between that manhole and the next manhole in the drainage run. The problems were identified variously as areas of deformity – squashing and bulging – and also areas that were blistered. Mr G has said that the contractors explained to him that the pipes were made from pitch-fibre and that this is what happens to them – it is to be expected.

Mr G made a claim for the damage to the drains to SoL. It asked for a copy of the drainage report and when it was received, asked for comment on the cause of damage. Mr G said that the contractor had said it was wear and tear/gradual deterioration. SoL asked that Mr G provide comment direct from the contractor, but this was not provided.

SoL declined the claim. The letter explained that the policy only covered one-off events and so SoL couldn't contribute to the costs of repairing Mr G's drains. It then went on to point out that his contractor had said the damage was due to wear and tear, which was specifically excluded under the accidental damage to pipes section of the policy and in general across all perils covered by the policy.

Mr G didn't accept this and referred his complaint to this service. He doesn't think that the wear and tear exclusion should defeat his claim as the pipes had collapsed due to gradual deterioration, which was an inherent flaw in pitch-fibre pipes. It wasn't due to the type of wear and tear the policy exclusion envisioned.

Mr G brought his complaint to this service and one of our investigators upheld it. As the contractor hadn't expressed an opinion itself over the cause of damage, she didn't think SoL had sufficient evidence to establish that the damage was due to wear and tear. She thought that it should reconsider the claim.

SoL didn't agree with the investigator. It considered, in the absence of evidence direct from the contractor, it was reasonable for it to rely on Mr G's account of the cause of damage.

The insurance policy defines accidental damage as:

Single and sudden unexpected event resulting in physical damage

Part 20 of the buildings section of the policy states that accidental damage to underground cables, pipes and tanks is covered under the policy. Under 'what is not covered?' it says:

Natural failure, wear and tear to drains

The general exclusion referred to by SoL says that the policy doesn't cover damage caused by, contributed to, or arising from:

Wear and tear, corrosion, rot of any kind, woodworm, fungus, mildew, rust, vermin, insects, moth, parasites, any cause that happens gradually, or mechanical or electrical breakdown

I issued my provisional decision on 25 January 2017, setting out my conclusion and the reasoning behind it.

Firstly, I explained that I would expect an insurer to attempt to get a cause of damage report from the contractor or expert that established what damage had occurred. SoL did so in this case – it asked Mr G to get one. He didn't. SoL could have attempted to contact the contractor directly and ask for the information. However, as the contractor worked for Mr G, it's unlikely it would have talked to SoL without Mr G's express permission.

In the circumstances of this particular case, I didn't think SoL was unreasonable to have relied on Mr G's account of what he was told. This is especially so given the known issues with this type of pipe and the type of damage those issues cause.

I went on to confirm that not all damage a home suffers is covered by a home insurance policy. The policy covers damage caused by certain events only, for example fire or flood. It must be established what the cause of the damage is and, for a claim to be valid, that the cause of the damage is something covered by the policy. If it is established that the damage was caused by one of the causes covered by the policy, the insurer must accept the claim, unless it is defeated by one of the policy exclusions.

SoL had said that the claim isn't valid because it has to have been caused by a one-off event. In addition, if it was a valid claim, it would be defeated by the exclusions for wear and tear and gradual deterioration.

I have detailed the definition of accidental damage above. Unfortunately, for Mr G there wasn't any evidence that the damage did occur in this way. Mr G's own account of what he was told was the cause of the damage was the deterioration of the drains over time, due to an 'inherent flaw' with the material they are made from. Deformities and blistering are particularly common occurrences in pitch fibre pipes and occur gradually.

I didn't believe that Mr G would have been aware of the damage and its discovery for him would have been sudden. However, that in itself doesn't mean that the damage itself occurred suddenly or from a one-off event.

In addition to saying that the claim didn't fall under the definition of accidental damage, SoL also said that the claim would be defeated by the wear and tear exclusions in the policy. Whilst I didn't think it was relevant in this case, because the damage didn't fall within the definition of accidental damage, I didn't think that SoL would have been unreasonable in relying on the exclusions it did. Mr G didn't believe that it's reasonable to say that it was wear and tear that caused the damage to his pipes because, as he puts it, they are inherently flawed. However, it is the use of the pipes that causes the damage to happen. Damage caused in the normal use of an item or product is normally described as wear and tear.

Both Mr G and SoL acknowledged receipt of my provisional decision. Neither party had anything further to add.

my findings

I have reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. As neither party had any new comments or evidence to add, I see no reason to change my conclusion; that being that SoL wasn't unreasonable in declining Mr G's claim.

my final decision

My final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr G to accept or reject my decision before 9 March 2018.

Derry Baxter
ombudsman