

## **The complaint**

Mr R complains about how MS Amlin Insurance SE handled a claim he made on his marine insurance policy.

Mr R is the policyholder and Miss M is his representative. However, for ease, I'll refer to Mr R throughout this decision as the representations have been made for and on his behalf as the policyholder.

## **What happened**

The details of the claim are well known to both parties, so I'll summarise this here.

In May 2023, Mr R discovered his boat – which was out the water in a boat yard for refurbishment – had suffered a flood in the rear cabin and battery locker. In the claim form sent to this Service, Mr R explained the rear cabin is used as a storage area and so the water was only discovered when he went to get something out from it. He then realised the battery locker had flooded and the shore power had been unplugged. Mr R said he assumed the bilge pump batteries situated in the battery locker had run flat and stopped working after the power had been unplugged. Rain then filled the battery locker and went into the rear cabin causing the flood.

Mr R made a claim on his policy with MS Amlin who appointed a surveyor to attend. As a result of the surveyor's findings, MS Amlin declined the claim on the basis there wasn't enough rain to cause the damage claimed over the likely period the bilge pumps weren't working. Therefore, the water ingress happened over a period of time and was a gradual collection of rainwater. Mr R explained his claim was the shore power had accidentally been unplugged and this caused the flood. So, he asked MS Amlin to consider the claim again.

MS Amlin referred Mr R's comments to the surveyor, but this didn't change the claim decision. This is because the primary cause was a gradual accumulation of rainwater into the battery locker and rear cabin, and this is excluded by the terms of the policy. This was supported by the following observations made in the surveyor's report:

- There hadn't been any extreme weather conditions or rainfall reported during the period since Mr R said he'd last visited the boat (approximately 6 weeks prior to discovering the flood) sufficient to flood the battery locker and rear cabin.
- Mould growth on the bulkhead and deckhead panels.
- The tide line left by the water.
- The volume of water in the rear cabin space.

MS Amlin noted Mr R's points about someone unplugging the power but stated this wouldn't make a difference to the claim as, from the Surveyors observations and the images, the water had been building up over a period of time.

Mr R brought his complaint to this Service for an independent review. He says MS Amlin aren't looking at the claim correctly – if the power hadn't been unplugged, the boat wouldn't have been flooded.

An Investigator reviewed matters and thought MS Amlin had acted fairly and reasonably in declining the claim on the basis it isn't covered as a result of the policy exclusions. Specifically focusing on Mr R's point about the damage being accidental, she didn't agree the cause was the power being turned off as the surveyor's evidence was this was a gradual and sustained deterioration. And this isn't covered by the policy.

Mr R didn't accept the Investigators view. He explained, whilst there had been water ingress in the battery locker before, he'd fitted bilge pumps and had done all he could to safeguard his boat. Also, he doesn't agree coastal weather is accurately reflected by a weather station so far away. The Investigator communicated with Mr R to explain why these points didn't change her view. As Mr R didn't agree, the matter was passed to me for a 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.

I recognise I've summarised this complaint in less detail than the parties using my own words. I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this, and it reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I've given careful consideration to all of the submissions made before arriving at my decision and I'm satisfied I don't need to comment on every individual argument to be able to reach what I consider to be a fair outcome. Having done so, I'm not upholding this complaint.

Firstly, I think it's helpful to explain it's not my role to decide the cause of the flood. Instead, I need to consider if MS Amlin has applied the policy terms and conditions of the policy when reaching its decision to decline the claim and whether it has done so in a fair and reasonable way. Based on what I've seen, I'm satisfied it has.

The starting point of any claim made under an insurance policy is the contract between the customer and the insurer - the policy document. Mr R's policy excludes MS Amlin from liability in certain situations. This is set out in Section A and a relevant extract is below.

*'4 No cover is provided in respect of loss or damage as a result of:*

*...*

*4.11 osmosis, barnacle growth or fungal growth; [or]*

*4.12 incursion of water into the Vessel unless sudden and unforeseen, or accidental; [or]*

*4.13 gradual accumulation of rainwater or snow in or on the Vessel unless resulting from sudden, rare and extreme weather conditions'*

MS Amlin referred to these terms when it declined Mr R's claim. It explained the conclusions reached in the surveyor's report meant the flood in the battery locker and rear cabin was not covered because it falls within the above-mentioned exclusions.

Having considered matters carefully, I'm satisfied MS Amlin fairly and reasonably relied on the surveyor's report in reaching this decision. I say this because the surveyor clearly states his opinion is:

- The ingress of water was not from a recent single period of heavy rainfall; and
- The cause of damage remains a gradual accumulation of rainwater into the battery locker and aft cabin.

The surveyor set out his reasons for these conclusions, many of which have been referred to above in the background section. Having reviewed the same, I find MS Amlin's reliance on the report and decision to decline the claim was fair and reasonable.

I acknowledge Mr R disputes the conclusions reached by the surveyor. And, whilst I understand the point raised about the rainfall recorded at a nearby weather station which is some 18.5 miles away (as the crow flies), this wasn't the only factor considered by the Surveyor when concluding the flood was caused by a gradual accumulation of rainwater. Even so, I haven't been given any persuasive evidence to show the surveyors report shouldn't be relied on.

Taking everything into account, I'm satisfied MS Amlin acted fairly and reasonably in applying the terms of Mr R's policy to decline this claim.

I recognise Mr R will be disappointed with this outcome. But my decision ends what we – in trying to resolve his dispute with MS Amlin – can do for him.

### **My final decision**

For the reasons set out above, my final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 2 May 2024.

Rebecca Ellis  
**Ombudsman**