

## The complaint

Mr B complains about the decision by Accelerant Insurance UK Limited to turn down a claim made under an insurance backed guarantee.

## What happened

Mr B holds an insurance backed guarantee with Accelerant. This provides cover for making good a defect if a contractor has stopped trading and can't honour their written guarantee.

Mr B made a claim in 2021 as there had been various problems with windows that had been installed at his property in August 2015. The company that had carried out the installation (that I'll call 'D') stopped trading in November 2017.

Accelerant initially turned down the claim as Mr B had said the issues were noticed when the windows were installed, and had been reported to D. It relied on an exclusion which said Accelerant wouldn't be liable for any defect discovered or reported to the contractor more than six months before they stopped trading.

Mr B said that new issues had been found with the windows after D had stopped trading. Accelerant therefore agreed to consider whether these were covered. After arranging an inspection, Accelerant concluded that the issues weren't covered under the insurance backed guarantee. It therefore continued to turn down the claim. Unhappy with this, Mr B brought a complaint to this Service.

I issued a provisional decision on 15 September 2023. Here's what I said:

*'The terms and conditions exclude:*

*'any Defect discovered or reported to the Contractor more than 6 months before the Contractor Ceased Trading'*

*Mr B has described several problems with the windows to this Service. He explains that he noticed issues as soon as the windows had been installed in 2015, and raised these with D. He says that D carried out a repair, but further problems then arose. Despite continuing to try and contact D about the matter, D did not carry out any further repairs.*

*I'm satisfied that any issues discovered or reported to D before May 2017 (six months before they stopped trading) would fall under the above exclusion. Though I don't know for certain what issues were noticed or reported to D before this time, and Mr B says that further issues continued happening after D had stopped trading anyway.*

*I've therefore considered the report that Accelerant obtained in April 2022. This found that the majority of the issues were due to poor workmanship (bars falling off the windows, windows with the wrong units in, and brush seals too small). The report also said that some of the issues could be due to the design of the windows themselves (cracks to paintwork, and small gaps allowing draughts to come through). Finally, the report said that locks were of poor quality and one window had a broken hinge.*

*The insurance backed guarantee's terms and conditions explain that a claim can only be made for a defect caused by the defective workmanship of the contractor where this is specifically covered by the written guarantee. It excludes any loss or damage that wouldn't have been recoverable under the written guarantee.*

*D's written guarantee doesn't cover poor workmanship. As the majority of issues were found to be caused by D's poor workmanship, that means they aren't covered under the insurance backed guarantee.*

*The other issues are with the hardware (locks and hinges). The insurance backed guarantee doesn't provide cover for any loss or damage to these items if the damage becomes apparent more than two years after the completion date, unless the written guarantee explicitly states that an item of this nature is covered for a longer period.*

*D's written guarantee says that locks, finger pulls, pulley wheels and all metallic moving parts are guaranteed for one year. That means these also wouldn't be covered under the insurance backed guarantee, as these would have only been covered until August 2017. I haven't seen any evidence to support that these were damaged before that date.*

*Finally, there were two issues that the report found were likely due to the design of the windows themselves – cracks to paint, and sashes not aligning correctly with the frame, thereby allowing draughts to come through. Even if these were found to be defects as defined by the terms and conditions, again these weren't specifically covered by D's written guarantee. Therefore, they also aren't covered by the insurance backed guarantee.*

*I do sympathise with Mr B. He paid a lot of money for the windows to be installed, and hasn't been able to have the windows repaired/replaced. However, insurance doesn't cover every eventuality, and I'm satisfied that Accelerant's decision to turn down the claim was made in line with the terms and conditions.'*

I asked both parties for any further comments they wished to make before I made a final decision.

Mr B responded and didn't accept my provisional decision. He thought I'd missed various points, including that the windows lacked spacers.

Accelerant didn't respond with any further comments.

### **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.

Mr B hasn't explained what points he thought I'd missed in my provisional decision, apart from the windows lacking spacers.

It may be helpful if I explain that I didn't consider it necessary to include the detail of every issue with the windows in my provisional findings. Though I mentioned that there were windows with the wrong units in – the report arranged by Accelerant said that was because they didn't have spacers, when the other windows did.

In my provisional decision I addressed the hardware as well as two issues that the report found were likely due to the design of the windows themselves (cracks to paint and sashes not aligning correctly with the frame). To be clear, all the other reported issues highlighted in

the report were considered to be due to poor workmanship. D's written guarantee doesn't cover poor workmanship, so those issues aren't covered under the insurance backed guarantee provided by Accelerant.

I recognise Mr B will be disappointed with my decision, but I remain satisfied that Accelerant turned down his claim fairly and in line with the terms of the cover he held.

### **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 B to accept or reject my decision before 27 October 2023.

Chantelle Hurn-Ryan  
**Ombudsman**