

The complaint

Mrs H and Mr H complain about how UK Insurance Limited (Covea) dealt with a claim under their home insurance policy for damage to their property caused by a leak from a radiator.

Covea use agents to administer the policy and to assess claims. Reference to Covea includes these agents.

What happened

In December 2022, Mrs H and Mr H had an issue with a radiator in their property that froze during the night and split. When the heating came on, water leaked from the radiator, damaging a carpet beneath. Mrs H and Mr H contacted Covea the following month (through their broker) to tell them of the damage and lodge a claim. They provided photographs of the damage and engaged a plumber to replace the radiator.

Covea accepted and settled the claim for damage to the carpet but initially said they wouldn't cover the radiator as they considered it a maintenance issue, which the policy didn't cover.

Mrs H and Mr H challenged Covea's decision and, through their broker, contacted the plumber who'd replace the radiator. The plumber said the leak from the radiator could have been caused by the age of the radiator or the cold weather at the time of the leak. Covea maintained their view the damage to the radiator was due to wear and tear.

Unhappy at Covea's decision, Mrs H and Mr H complained. Covea didn't uphold the complaint. In their final response, they said they were declining the claim on the grounds the damage was due to frost, referring to a policy exclusion for damage caused by frost, settlement or shrinkage.

Mrs H and Mr H then complained to this service. They were unhappy at Covea declining their claim, saying the damage to the radiator wasn't the result of wear and tear, and that the radiator had frozen, causing it to split. The policy didn't define the term 'frost', which they thought didn't include an interior radiator freezing. They'd suffered financial loss and distress from what had happened and wanted Covea to cover the damage to the radiator.

Our investigator didn't uphold the complaint, concluding Covea acted fairly in declining the claim. She said most insurance policies covered damage from an escape of water from a burst pipe or appliance but didn't usually include damage to the pipe or appliance itself. The policy excluded damage frost, settlement or shrinkage. If the damage was caused by the radiator freezing, it was reasonable for Covea to decline the claim for the damaged radiator. But if the damage was caused by the age of the radiator, the other possible cause cited by the plumber, that also wouldn't be covered under the policy. So, she thought Covea didn't need to take any further action.

Mrs H and Mr H disagreed with the investigator's conclusions and asked an ombudsman to review the complaint. They didn't agree the cause of the damage to the radiator was due to wear and tear, as the evidence didn't support that view and given the split in the radiator and it not being a gradual leak. While the radiator was old, it was in good condition. Nor did they

think an exclusion for frost was reasonable to apply to a radiator inside their property, which they maintained had frozen, and the policy terms didn't clearly exclude. They thought a dictionary definition of frost should be applied in the absence of a definition in the policy, which wouldn't include a frozen interior radiator.

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.

My role here is to decide whether Covea has acted fairly towards Mrs H and Mr H.

The main element of Mrs H and Mr H's complaint is that Covea unfairly declined their claim for the damage to the radiator. Mrs H and Mr H say the damage should be covered under the policy, as the cause of the damage wasn't wear and tear, and the exclusion for frost can't reasonably be held to apply to a radiator inside the property. Covea initially declined the claim on the grounds the damage was a maintenance (wear and tear) issue and, in their final response, on the grounds of an exclusion for frost.

Given the issue revolves around decline of the claim under exclusions for wear and tear and then frost, I've first looked at the relevant policy terms and conditions. Within the *Buildings section there's a heading What you are not covered for* which includes the following:

"3. Loss or damage caused by...

- Frost, settlement or shrinkage..."*

The *General Exclusions* section of the policy includes the following under a sub heading *What you are not covered for*:

"1. Loss or damage or any claim caused by:...

- Wear, tear or the gradual deterioration of something with age and over time..."*

I've also considered the opinion of the plumber who replaced the radiator. In exchanges with Mrs H and Mr H's broker the plumber makes the following statements (in chronological order):

"In my opinion, the fault with the radiator could have been due to old age. We were experiencing a very cold snap at the time of failure which could have contributed to its demise."

"I never stated that your radiator failed as a result of old age or cold weather – just said those were possibilities."

"With the best will in the world, I cannot give a concrete reason for how the radiator failed."

I accept the plumber hasn't given a definitive view on the cause of the damage to the radiator, but the two possibilities are, firstly, the age of the radiator. Given the wording of the wear and tear exclusion, I think it reasonable, on the balance of probabilities, to conclude the exclusion would apply if the age of the radiator was the cause of the damage (if freezing was held to be the cause of the damage, it would have highlighted the radiator's age and ability to withstand the freezing). And while the plumber subsequently declined to provide a

definitive opinion about the cause of the radiator damage, their initial view does indicate the age of the radiator could be a factor in the damage to it.

If the damage was – as Mrs H and Mr H believe – due to the freezing of the radiator, then the question becomes one of whether it was fair and reasonable of Covea to apply the exclusion for damage caused by frost.

In considering this issue, as well as the policy wordings and views of the plumber, I've also noted what Mrs H and Mr H have said (in communication with their broker) about the circumstances of the leak. They say the radiator was immediately under their bedroom window, which they kept open during the night in spite of cold temperatures. And the burst occurred during a very cold spell when temperatures were approximately -10c. They were woken by a bang in the night but there wasn't an escape of water until the following morning, after the heating had come on.

Thinking about this description, while they contend the wording of the policy exclusion wouldn't cover a frozen radiator inside the property, leaving a radiator exposed to what they say were freezing outside temperatures would, I think, be something the exclusion for frost could reasonably be held to cover.

Mrs H and Mr H also say that as the policy doesn't define frost, they think it reasonable to use a dictionary definition, and they've provided the following definition (from the Concise Oxford English Dictionary):

"A deposit of small white ice crystals formed on the ground or other surfaces when the temperature falls below freezing."

They maintain this means freezing of water on the *outside* (their emphasis) of a surface. And in their case the water *inside* (their emphasis) the radiator froze and was inside their property, with no deposit of ice on the outside of the radiator. So, they think the damage to the radiator wasn't caused by frost.

However, I've looked at other definitions of frost on publicly available sources. While they include references to such things as white layers of ice and occurring outside, they also include phrases including:

"...degree or state of coldness sufficient to cause the freezing of water."

"...the thin white layer of ice that forms when the air temperature is below the freezing point of water, especially outside at night."

"A water condition in which the air temperature falls below the freezing point of water, especially outside at night."

*"a) the process of freezing
b) a covering of minute ice crystals on a cold surface
c) the temperature that causes freezing."*

Looking at these definitions, together with the circumstances Mrs H and Mr H have described that led to the radiator freezing, then I've concluded it isn't unreasonable to apply the term frost (and so the exclusion for damage caused by frost) to what happened to the radiator. By definition, the air temperature would have had to be below the freezing point of water, even (as in this case) where the radiator was inside the property.

Mrs H and Mr H also refer to other exclusions in the policy for 'freezing of water within any fixed water or heating installation' in certain circumstances, such as when the property is unoccupied. Their inclusion indicates the frost exclusion wasn't intended to apply to fixed water installations (such as a radiator).

I've considered this point, but I don't agree. These separate terms are generally included to reflect the fact that, where a property is unoccupied longer than a specified period, the risk of damage or loss from an escape of water (however caused) is significantly greater. And any damage is likely to be more significant as it wouldn't be detected as quickly had the property been occupied. So, I don't think the inclusion of such terms affects my conclusion Covea acted reasonably in declining the claim.

I've also considered the general principle, where an insurer relies on an exclusion(s) in the policy to decline a claim (as Covea have done by citing the above exclusions – either/or for wear and tear and for frost - then the onus is on them to show the exclusion applies. Looking at the available information and evidence, I think Covea have done so in the circumstances of this case.

So, I've concluded Covea acted fairly in declining Mrs H and Mr H's claim.

My final decision

For the reasons set out above, it's my final decision not to uphold Mrs H and Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 14 December 2023.

Paul King
Ombudsman