

The complaint

A charity, that I will refer to as S, complains about the decision of Ecclesiastical Insurance Office Plc not to cover certain losses under S's insurance policy.

What happened

The following is intended only as a brief summary of events. Additionally, whilst a number of individuals have been involved in the correspondence around the complaint, for the sake of simplicity, I have just referred to S and Ecclesiastical.

S operates, effectively, as a church and held a Parish Plus insurance policy underwritten by Ecclesiastical. In November 2020, S contacted Ecclesiastical to report visible damage to the church hall at its premises.

Both S and Ecclesiastical instructed experts to assess the building. The experts essentially agreed that the cause of the damage was related to a design and construction deficiency, due to the absence of lateral restraint straps between the gable walls and the roof trusses, combined with the lack of any internal roof bracing.

Ecclesiastical advised S that it would not cover any claim relating to this damage, as it would be caused by the property's own faulty or defective design. It also advised S that there would be no cover should the building collapse as a result of this issue. And that measures should be taken to stabilise the building. In April 2021, part of the building did collapse.

S then contacted Ecclesiastical again in 2023 to appeal the decision. However, Ecclesiastical maintained its stance and S brought its complaint to the Financial Ombudsman Service. Our Investigator did not recommend the complaint be upheld either though. He thought that, in the absence of persuasive evidence of a specific insured event, it was appropriate for the claim to have been considered under the accidental damage cover. But he agreed with Ecclesiastical that the exclusion in this cover relating to faulty or defective design applied to the circumstances. He also did not think the subsequent collapse would be covered as this was not sudden and unforeseen, and that S had not taken reasonable precautions to prevent this damage.

S remained unsatisfied with this outcome. It referred to potential insured events, though it did not provide supporting evidence that these had caused the damage in question. S also said that it had taken some measures between November 2020 and April 2021. As our Investigator was unable to resolve the complaint, it has been 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.

Having done so, I am not upholding this complaint. I'll explain why.

I should stress that, whilst I have considered all of the evidence provided, I am not going to

refer to each point. Instead, I will focus on the key issues.

Essentially, this complaint is about whether the circumstances of damage are covered by the policy S has. No insurance policy will cover every eventuality. So, what actually happened needs to fall within one of the categories of cover and not be excluded from that cover. If it does not fall within the cover, or if it is excluded, then Ecclesiastical will have acted appropriately by not covering the cost of repairing the damage.

There are potentially two occasions of damage to consider.

The first is the initial damage, reported in November 2020. I note the references S has made to potential storm or 'earthquake' activity. But no supporting evidence has been provided that any such event was the cause of the damage. In the absence of any persuasive evidence of such an insured event, the initial damage would be considered under the 'accidental damage' clause.

However, even if this cover applies, it includes certain exclusions. One of these is for:

"Damage caused by or consisting of inherent vice, latent defect, wear and tear, depreciation, atmospheric or climatic conditions, rust, dust, fungus, the property's own faulty or defective design or materials, faulty or defective workmanship, or any gradually operating cause, but this shall not exclude subsequent damage which itself results from a cause not otherwise excluded."

And the expert opinions, from both Ecclesiastical and S's own assessor, are in agreement that the cause of loss is the manner in which the building was constructed. I consider that, in the circumstances, this would be considered an issue of the property's own faulty or defective design. So, it follows that Ecclesiastical appropriately applied the policy terms to the initial damage.

There was subsequent damage however, in that the building partially collapsed in 2021. This is the second occasion of damage. Again, it has not been evidenced that there was a specific insured event, such as a storm or earthquake that caused this collapse. So, once again it is necessary to consider whether this damage would fall under the 'accidental damage' cover.

I note that there is a further exclusion under this cover for any damage to a building or structure caused by its own collapse or cracking, which might apply. However, Ecclesiastical did not get as far as applying this, as it did not consider there had been a sudden and unforeseen event that had caused the damage. In the absence of a policy definition of the term 'accidental damage', I consider this is what a reasonable person would understand this term to mean.

Ecclesiastical's position is that the risk of collapse was clearly identified in late 2020, and S was advised of this. So, it cannot be said that the collapse was unforeseen. I appreciate S's comments that the collapse was not foreseen prior to late 2020, and that there was only a matter of months between this and the actual collapse. However, at the time of the collapse, this event had been foreseen for some months. So, I agree with Ecclesiastical here.

S was also advised to take steps to mitigate this risk. S has pointed out that it was in the process of obtaining a Health and Safety report in relation to works on the building. I appreciate that this process may have been delayed by matters outside of its control. But even for it to be necessary to consider applying the general policy condition, requiring a policyholder to take reasonable precautions to prevent damage, there must first be a valid claim. This requires the loss to fall within one of the relevant categories of cover. And, as above, as I do not consider the eventual collapse to have been sudden and unforeseen. So,

I do not consider it falls within an applicable area of cover.

I am sympathetic to S's situation. And, whilst it is possible further action could have been taken to mitigate the eventual collapse, generally this is a situation where S has suffered a loss as a result of the initial construction of the building for which it was not responsible.

However, taking all of the points above into account, I am satisfied that Ecclesiastical acted fairly and reasonably when concluding the damage would not be covered by the policy.

I also note that S has queried whether an ex-gratia payment could be made. But this is something for Ecclesiastical to make a decision on.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 18 January 2024.

Sam Thomas
Ombudsman