

The complaint

Mr and Mrs C complain about Fairmead Insurance Limited's decision to turn down their buildings insurance claim.

What happened

Mr and Mrs C own a holiday home which is covered by a buildings insurance policy with Fairmead.

In December 2022, a pipe burst causing significant damage. A claim was made, but Fairmead turned this down. It said an endorsement on the policy hadn't been complied with, which required the heating to be left on and the loft hatch left open. Mr and Mrs C disputed this and brought a complaint to this Service.

Our investigator didn't recommend the complaint be upheld. She thought the evidence supported that the heating hadn't been left on, and therefore the endorsement hadn't been complied with. She concluded it had been reasonable for Fairmead to turn down the claim.

Mr and Mrs C didn't accept our investigator's findings, and so the matter 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.

The policy schedule includes a number of endorsements, which take into account that the property was being used as a holiday home. One of those says:

'Changes to the cover provided

Section One – Buildings and Section Two – Contents

...

*Under number 4, 'Escape of water from and frost damage to fixed water tanks, heating installations, apparatus or pipes' we will not pay for loss or damage between 1st November and 31st March (both days inclusive) once the **home** has been left without an **occupant** unless:*

- 1. the Water Supply is switched off at the mains and the entire water system and central heating system be drained of all water;*
- or*
- 2. where the entire **home** has the benefit of a central heating system it is set to operate continuously for 24 hours of each day and the thermostat set at not less than 10 degrees Celsius/50 degrees Fahrenheit.*
- 3. where fitted the loft hatch door is left open.'*

The policy defines 'occupant' as:

*‘A person or persons authorised by **you** to stay in the **home**’*

As I understand it, the property was occupied by a guest until 5 December 2022. The property manager inspected the property on 14 December 2022, but when he returned on 17 December 2022, he discovered the burst pipe.

Fairmead’s loss adjuster carried out an inspection of the damage, and met with the property manager at the house. The loss adjuster says the property manager advised that the central heating had been turned off. The loss adjuster observed that the loft hatch wasn’t open at the time of the inspection.

It’s not in dispute that Mr and Mrs C were aware of the endorsement. Their representative says the property manager was also aware of the endorsement, and made sure the central heating was on continuously. The representative also says the property manager denies telling Fairmead’s loss adjuster the heating had been turned off.

This Service is an informal dispute resolution service. Where the available evidence on a case is contradictory, as it is here, I need to reach my decision on the balance of probabilities. In other words, what I consider is most likely to have happened in the light of the available evidence and wider circumstances.

I understand that the loss adjuster was aware of the endorsement before the visit took place. Because of this, I think the loss adjuster would have asked the property manager about the heating at the time of the damage and taken care to note the answer.

The terms above are fairly common in these types of policies, and it’s generally accepted that the minimum temperature would be enough to keep pipes from freezing in low temperatures. Given that the pipe did burst, this does suggest that the heating hadn’t been kept on.

On balance, I think it was reasonable for Fairmead to rely on the information given to it by the loss adjuster, and conclude the endorsement had been breached. It’s likely the breach was material to the loss, and so I think it acted fairly by turning down the claim.

The loss adjuster says the loft hatch was closed at the time of the inspection. Mr and Mrs C’s representative has provided a video which shows that from a particular angle the loft hatch can appear closed but is actually open. Though I don’t think this makes a difference to the matter, as the loss adjuster’s inspection took place after the event, so we don’t know if the loft hatch was open or closed at the time of the loss. But as our investigator has said, the endorsement required both the loft hatch to be open and the heating to be left on. So if one of those wasn’t done, then the endorsement was breached.

Mr and Mrs C’s representative thinks the endorsement itself is unfair and unreasonable, as he says it requires the heating to be on and the loft hatch open whenever someone leaves the property, even if going out for a short time.

The endorsement says it needs to be complied with when the property has been left without an occupant, which is someone authorised by the insured to stay in the home. I interpret that to mean when the property doesn’t have people staying there, not each time a guest goes out.

Buildings insurance policies often have exclusions in place for damage where a property is unoccupied. This particular policy defines unoccupied as the buildings not being lived in for more than 30 consecutive days. Although Mr and Mrs C’s representative thinks it’s unfair that Fairmead didn’t apply this definition to the endorsement, that decision was up to

Fairmead. It was covering the risk of a holiday home and wanted action to be taken when the property wasn't being used to reduce the risk of damage by frozen pipes. I don't think that was unfair, so long as the insured was made aware of it.

I recognise my decision will disappoint Mr and Mrs C, but I don't require Fairmead to pay the claim.

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 C and Mrs C to accept or reject my decision before 8 January 2024.

Chantelle Hurn-Ryan
Ombudsman