

The complaint

Ms W has complained that Aviva Insurance Limited (Aviva) unfairly declined a claim under a home insurance policy.

What happened

Ms W contacted Aviva to make a claim for storm damage when a wall partially collapsed between her and her neighbour's property. Aviva sent a surveyor to assess the wall and then declined the claim. It said the damage was the result of a gradually operating cause, which wasn't covered by the policy.

When Ms W complained, Aviva maintained its decision to decline the claim. So, Ms W complained to this service. Our investigator didn't uphold the complaint. She said it was reasonable for Aviva to rely on its surveyor's findings that the damage was the result of a gradually operating cause and to decline the claim.

As Ms W didn't agree, the complaint was referred to me.

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 don't uphold this complaint. I will explain why.

I should note that I'm aware Ms W didn't think the complaint should be about Aviva, as this wasn't one of the companies she had been dealing with. I've checked the policy documents and I'm satisfied that Aviva was the underwriter for the policy and that the complaint is against the right company.

When we look at a storm claim complaint, there are three main issues we consider:

1. do we agree that storm conditions occurred on or around the date the damage is said to have happened?
2. is the damage claimed for consistent with damage a storm typically causes?
3. were the storm conditions the main cause of the damage?

We're only likely to uphold a complaint where the answer to all three questions is yes.

It isn't in dispute that there was a storm, but I've also checked the weather around the time of the claim and saw there were wind speeds that would be considered storm strength. I also think a storm could damage a garden wall in some circumstances. So, I think the answer to the first two questions is yes.

So, I've thought about whether the storm was the main cause of the damage. I've looked at Aviva's surveyor report. This said the wall showed signs of mortar deterioration and signs the wall had previously been repaired with cement. It also said there had been underlying

issues with the affected areas of the wall and that sometimes it was likely the collapse was caused by a gradual build up of pressure and vegetation growth causing the wall to break down. The report said the wall showed signs of age and deterioration over years and the poor weather had highlighted this. I've also looked at the photos, which show issues with the mortar and vegetation within the wall. So, I think the report explained why the damage wasn't due to the storm, which instead seemed to highlight the pre-existing issues. I've also looked at the policy documents, which said that gradually operating causes, such as wear and tear or damage that happened over time, weren't covered by the policy.

I'm aware Ms W disagrees there was vegetation growing on the wall before it collapsed, but I'm satisfied the report showed there were pre-existing issues with the wall, including showing photos of the vegetation. Aviva also reviewed the claim on a few occasions to see if there was cover under the policy and decided there wasn't. So, I think Aviva took steps to ensure it properly assessed the claim and Ms W's concerns.

Ms W also said her neighbour's insurer had accepted the neighbour's claim for the wall and was willing to pay towards its repair. Ms W provided this service with a copy of the other insurer's surveyor report. The first time the surveyor visited, despite being there to assess the neighbour's claim, he was only able to view the wall from Ms W's garden as the neighbour wasn't available. This said Ms W's side of the wall "*did not appear to be in a well-maintained state*".

The other insurer's surveyor later returned to inspect the neighbour's wall from the neighbour's garden and updated the report. This said the surveyor was "*surprised by the difference in maintenance conditions of the stone walls*" and noted that a cyclical maintenance regime had been in place on the neighbour's side of the wall. The report said the surveyor believed "*the external boundary walls have been regularly maintained and that [the neighbour's] side of the wall had been damage[d] by a lack of historic maintenance on [Ms W's] side*".

I don't have a view on the other insurer's decision to deal with the neighbour's claim. However, I think the surveyor report, like Aviva's report, highlighted pre-existing issues with Ms W's side of the wall and didn't think it was a well-maintained wall. The report highlighted how different Ms W's side of the wall was to the condition of the wall on the neighbour's side. So, I don't think a different insurer accepting the neighbour's claim showed that it was unreasonable for Aviva to decline Ms W's claim.

Based on everything I've seen, I think it was reasonable for Aviva to decline Ms W's claim for damage to the wall because of gradually operating causes, which weren't covered by the policy. As a result, I don't uphold this complaint or require Aviva to do anything further in relation to it.

My final decision

For the reasons I have given, it is my final decision that this complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 6 November 2023.

Louise O'Sullivan
Ombudsman