

The complaint

Mrs M and Mr M complain about Great Lakes Insurance SE (Great Lakes) declining a claim under their home insurance policy for damage to a chimney at their property.

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

What happened

In November 2022 Mrs M and Mr M contacted Great Lakes to lodge a claim for damage to a chimney at their property. They said they'd been told by a contractor working at a neighbouring property that a chimney at the property was damaged and required a support rod. The damage was believed to have been caused at some point by bad weather (high winds) in the area.

Great Lakes treated the claim as one of storm damage. However, they couldn't find any indication of storm (high winds) in the period before Mrs M and Mr M told them about the damage. So, they declined the claim as there hadn't been a storm that would constitute an insured peril under the policy.

Mrs M and Mr M challenged the decline of their claim, saying there had been three occasions of bad weather in the year and the damage could have accumulated over the period. As Mrs M and Mr M couldn't provide a precise date the damage occurred, Great Lakes carried out weather checks for the previous six months but still couldn't identify any significant weather events in the area of the property that would have caused the damage to the chimney.

Great Lakes also noted the construction of the chimney stack being tall (given the age of the property) and from publicly available pictures of the property they observed the chimney was leaning. Due to the height of the chimney, they thought it should have had a brace support (support rod). They noted a neighbouring property with a similar chimney had such a support rod. Based on this, Great Lakes also declined the claim on the grounds of defective construction or design (an exclusion in the policy).

Mrs M and Mr M then complained to Great Lakes about the decline of their claim. But Great Lakes didn't uphold it. In their final response they said the policy didn't cover damage that occurred gradually over time, referring to a policy exclusion for wear and tear. Having reviewed the claim, as they didn't think the damage was caused by a one-off [storm] event and there being no storm conditions in the previous six months, Great Lakes confirmed their decline of the claim.

Mrs M and Mr M then complained to this service, saying Great Lakes had unfairly declined their claim. They thought the damage had been caused by a combination of high winds. They'd paid £4,200 to have the chimney repaired and wanted Great Lakes to cover the cost.

Our investigator didn't uphold the complaint, concluding Great Lakes didn't need to take any action. Weather reports indicated a storm in the area of Mrs M and Mr M's property in February 2022. The investigator noted the specialist view chimneys of the type at Mrs M and

Mr M's property often required additional support and can lean due to the expansion of eroded mortar joints. Based on this, the investigator concluded the damage to the chimney had occurred gradually over time. So, Great Lakes hadn't acted unfairly in applying the wear and tear exclusion to decline the claim.

Mrs M and Mr M disagreed with the investigator's conclusions and asked that an ombudsman review the complaint. They said their property had been well maintained, including repointing to the chimney (the other chimneys hadn't required any work or support bar). And Great Lakes hadn't provided sufficient evidence to support their view the damage wasn't caused by one of the storms in the area that year. Not all chimneys in the area had support rods, and other properties in the area hadn't been maintained to the same high standard as theirs had been (so it was unfair to make comparisons). Had they not sold the property, any necessary chimney restoration work would have been completed in 2022 (though they thought it unlikely a support bar would have been needed).

They also thought changing weather patterns and more frequent storms could have affected the chimney (and there were several storms between January and November 2022). No damage was visible from the ground, and it was only closer examination which identified the possible need for a support bar. And had there been damage due to wear and tear, they would have expected it to have led to damage (by water penetration) to the internal wall below the chimney. But there was no such damage.

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.

I'd first want to say that I appreciate what Mrs M and Mr M have told us about their circumstances, particularly those of Mr M and his health. I know this will be very worrying and I've borne this in mind when deciding, as is my role here, whether Great Lakes have acted fairly towards Mrs M and Mr M.

The main element of Mrs M and Mr M's complaint is that Great Lakes unfairly declined their claim, on the grounds that the damage to their chimney wasn't caused by a [one off] storm event, as there weren't storm conditions in the period up to when Mrs M and Mr M notified them of the damage. Rather it happened gradually over time, so wouldn't be covered due to the policy exclusion for wear and tear (damage that happened gradually). Mrs M and Mr M say their property was well-maintained and the damage was the result of high winds.

While this is the main issue (and the one referred to in Great Lakes' final response) a second issue, referred to in their initial decline of the claim, was the defective construction of the chimney. Great Lakes referred to a policy exclusion for defective construction, saying the chimney should have had a support rod (given a neighbouring, similar property had such a support rod to a chimney). Mrs M and Mr M don't agree the chimney should have had a support rod, saying it was in good condition and none of their other chimneys had an issue (or needed a support rod).

In considering the first issue, in cases of claims for storm damage, there are three key questions we consider:

- Do we agree that storm conditions occurred on or around the date the damage is said to have happened?
- Is the damage claimed for consistent with damage that a storm typically causes?
- Were the storm conditions the main (or dominant) cause of the damage?

On the first question, in their final response Great Lakes said they checked weather reports for the six-month period leading up to the date Mrs M and Mr M notified them of the damage (as they couldn't provide an exact date the damage occurred, or likely to have occurred). Great Lakes said the reports didn't indicate any weather conditions they would consider to be storm conditions. As such, there wasn't an insured event (peril) and so the claim wouldn't be covered. Mrs M and Mr M say there were three periods of bad weather during the year, and that they might have cumulatively caused the damage.

Having looked at the weather data from the weather firm used by this service, I can see there were storm conditions in February 2022 (at the time of the recognised Storm Eunice). While this falls within 2022 (as referenced by Mrs M and Mr M) it is over seven months before the date Mrs M and Mr M reported the damage to the chimney. Mrs M and Mr M say the damage to the chimney wasn't visible (from the ground) and the circumstances would indicate there was no other damage to the property (if, for example, part of the chimney had been dislodged and caused damage to the roof or other part of the property).

Taking these points together, I'm not persuaded there were storm conditions at the time Mrs M and Mr M notified Great Lakes of the damage (November 2022). Nor am I persuaded it's likely any damage was the result of storm conditions at the time of Storm Eunice (and not visible or otherwise noticeable).

While I've reached this conclusion, I've considered the other evidence available about the damage. During our service considering Mrs M and Mr M's complaint, they commissioned a report from an engineer about the nature of the damage to the chimney and what may have caused it. The report reaches the following conclusions:

"...With regard to the three tall chimney stacks serving this property noted as leaning, all show visual deflection in their height. The following provides a summary on the possible causes for the deflection as noted.

One common cause for a leaning chimney is from the expansion of eroded mortar joints. If the surface of the chimney stack is exposed to the prevailing wind, constant wetting can result in the expansion of mortar joints therefore causing the stack to lean away from the wind. This is prominent on the cold windward side of the stack, as it is wetter from the rain."

The engineer's conclusions don't indicate the damage (whenever it may have occurred) was likely to have been the result of a one-off storm event (even if it was thought to result from Storm Eunice). The conclusions are consistent with damage (the lean) occurring gradually over time. I've also noted the conclusion refers to three stacks at the property all leaning, which would also be consistent with something happening gradually over time – not the result of a one-off storm event.

Given these conclusions, I don't think the nature of the damage is (taking the second of the three questions we consider) consistent with the damage a storm typically causes. That being the case, it's also fair to say (in answer to the third question) storm conditions weren't the main or dominant cause of the damage.

In their final response, Great Lakes refer to the following exclusion in the policy booklet:

"Wear and tear

Any loss, damage, liability, cost or expense of any kind caused directly or indirectly by or resulting from wear and tear...or anything which happens gradually..."

We won't pay for claims that are a result of wear and tear or anything that happens gradually."

Given my conclusions above about the likely nature and cause of the damage occurring gradually over time, then I think it's reasonable for Great Lakes to have applied the exclusion to decline the claim.

As I've reached this conclusion, I've not considered the other exclusion for defective construction or design any further.

My final decision

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

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

Paul King
Ombudsman