

## **The complaint**

Ms R is unhappy that Accredited Insurance (Europe) Ltd (hereafter referred to as AIL) declined her storm damage claim.

## **What happened**

Ms R had a home insurance policy underwritten by AIL for her buildings and contents. In October 2022, she claimed under the policy for her boundary wall which she said partially collapsed during torrential rain.

AIL's field surveyor attended and issued a report, including photos, concluding that the damage was due to wear and tear. AIL declined the claim under the policy exclusion for wear and tear and because the weather conditions on the day didn't meet the storm definition.

Ms R didn't think the surveyor was qualified to determine the cause of damage. She provided AIL with a report from the dry-stone wall specialist who later repaired the damage. She said the report confirmed that the damage was due to torrential rain. Ms R also provided numerous screenshots of social media and news articles reporting flooding in the local area on the day her wall collapsed.

AIL instructed a structural specialist to assess the evidence, who agreed with the first surveyor that the wall collapse was due to gradually occurring causes (wear and tear). AIL sent its final response to Ms R, again declining the claim under the exclusions of wear and tear and the storm definition. So Ms R brought her complaint to us.

Our investigator upheld the complaint. She said the evidence confirmed storm conditions on the day Ms R claimed for her wall. She also said the expert report Ms R provided supported her claim that the wall collapse was caused by the storm. Our investigator thought AIL should settle the claim, pay 8% interest and pay £100 compensation for the service shortfalls.

Ms R accepted, though she asked for more compensation when AIL didn't agree with the outcome.

AIL didn't agree there'd been storm conditions that met the policy definition. It also said Ms R's expert report confirmed that the damage was due mainly to subsidence.

I issued a provisional decision in June 2023 explaining that I was minded to not uphold Ms R's complaint. Here's what I said:

### ***provisional findings***

*AIL declined Ms R's claim for the following reasons:*

- *The weather conditions didn't represent a storm as defined by the policy.*
- *The damage was mainly due to a gradually operating cause.*

- *The damage was not consistent with an insured peril.*

## **Storm**

*Ms R said the torrential rainfall caused the damage, but AIL said the rainfall on the day didn't meet its policy definition of a storm.*

*I've considered the policy definition alongside confirmed weather data and the numerous pieces of evidence Ms R provided to show that there was localised flooding caused by heavy rainfall on the day of her claim. While the storm may not have met the policy definition, I think it's fair to say the evidence shows the weather was consistent with that which a reasonable person would define as a storm.*

*Therefore, I've accepted there was a storm on the day of Ms R's claim.*

*I also accept that walls can become damaged during some storm conditions, so I'll move on to look at whether the evidence shows Ms R's wall was damaged wholly or mainly by the storm. But, firstly, I'll comment on Ms R's belief that AIL's surveyors were not qualified to assess the cause of damage.*

## **AIL surveyors**

*Ms R gave a number of reasons for thinking AIL's surveyors weren't suitably qualified to assess her wall damage. These include the surveyor:*

- *considering other causes, such as car impact damage, without there being any evidence;*
- *guessing at causes;*
- *stating that they couldn't determine the cause, and*
- *making an assessment based on photos alone.*

*While I'd expect the surveyors to consider other causes as part of the overall assessment, I have no reason to doubt Ms R's description of her experience and that she didn't feel convinced regarding the level of skill.*

*To be clear, I am not concluding that the surveyors weren't suitably qualified and I'm not disregarding their conclusions. But, to provide Ms R with some additional reassurance, I'll explain why her evidence alone persuades me that AIL didn't treat her unfairly.*

## **Cause of damage**

*Ms R kindly supplied photos of her home before the wall was built, the wall before it was damaged, and up to date photos since the repair. I accept the wall wasn't even built at the same time as the house, so I've disregarded any reference to the wall being older than 20 years.*

*AIL's in-house assessor reported that the wall was already showing signs of wear and tear before the damage. The conclusion was drawn from photos. I've looked at the photos and I can see why AIL thought the wall was suffering from wear and tear. The photo suggests a lean to the outside of the garden, then twists slightly and leans toward the garden. With that said, I think it's difficult to get the full perspective from a photo so, for the purpose of this decision, I've disregarded any claim of it leaning.*

*I've looked at Ms R's dry-wall specialist's report. It says:*

*After assessing the structure, it is the opinion of [the walling specialist] that the wall has collapsed as a result of storm damage. During recent bouts of heavy rain, it is evident that the foundations of the wall has (sic) been compromised by subsidence of the ground. This has led to the base of the wall splaying outwards, putting additional pressure on the internal skin, thus resulting in a collapse.*

*Ms R says this report confirms that the storm caused the damage. I don't agree. The report provides two reasons for the wall collapse – heavy rain/storm and compromised foundations/subsidence. Having carefully considered the report, I think the conclusion is that rain over a period of time has contributed to the foundations being compromised, resulting in a weakened wall. For her policy to provide cover, Ms R would need to show that the wall damage was caused by a single storm event. But the specialist hasn't said that the damage was due to a single event. Rather, he concluded that the damage resulted from bouts of heavy rain - multiple events. This supports AIL's position that Ms R's wall collapsed due to gradually operating causes.*

*For this reason, I think AIL fairly declined Ms R's claim under the policy exclusion of gradually operating cause, so I don't plan to ask AIL to pay Ms R's claim.*

### **Compensation**

*I'd need to see evidence that AIL failed to handle Ms R's claim fairly in order to consider compensation. I've thought about her complaint that AIL's surveyor was rude to her over the phone, and I've already commented on her belief that the surveyors weren't suitably qualified. However, I haven't seen any evidence which persuades me that AIL did or didn't do something to cause Ms R any significant material loss or inconvenience for which it needs to apologise. It declined the claim because it didn't agree a storm was the main cause of damage, and I think the evidence supports this.*

*Overall, I haven't identified anything to suggest AIL treated Ms R unfairly, so I don't plan to ask AIL to pay any compensation.*

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

AIL didn't provide anything further.

Ms R didn't agree with my provisional decision. She provided further comment from her dry-stone wall specialist and evidence that the rainfall on the day her wall collapsed was the first in some time. Therefore, she didn't think the damage could be attributed to several bouts of rainfall.

### **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've decided not to uphold Ms R's complaint. I realise this is not the outcome she was hoping for, but the evidence hasn't persuaded me that a storm peril was the main cause of the wall collapse.

I remain of the view that the conditions reported in the area were consistent with a storm. Since issuing my provisional decision, Ms R provided further clarification from her dry-stone

wall specialist. He said the recent bouts of rain referred to in his report meant bouts of rain on that single day. Ms R provided evidence that prior to this there had been a long period of dry weather, such that there was a hosepipe ban in place. I accept that the report, then, didn't mean recent bouts of rainfall over several days or weeks.

So, I've considered again whether the rainfall on the day the wall collapsed was the most probable cause.

Looking back at AIL's report, I note the following:

*[Photo] appears to show the wall leaning inwards toward the insured property and also in the line of collapse. This lean in appears to be emphasised more on [photo] and I note the exposed inner leaf part seems lower than outer as would be expected by the rotating action of the fall. The weather at the time of incident was recorded as well below any storm rating and there appears to be no evidence of washout. In any event.. I would have expected the wall to fall the other way, which it did not.*

For context, the dry-stone wall was a partially retaining boundary wall on one side of Ms R's garden. On the inner side of the wall, Ms R's retained garden had plants and tress/large shrubs planted up to the wall edge. On the outer side, the wall joined the public footpath. The upper part of the wall collapsed inwards from roughly halfway up, level with the top of the soil on the inner side.

Ms R's specialist said:

*This collapse was not caused by weathering, or long-term erosion of the footings, it was a single event that breached the absorption capacity of the subsoil (and surrounding area), reducing the load-bearing capability of the footing, resulting in the wall splaying and collapsing internally.*

I must rely on the expert evidence available to reach my decision, but here there are conflicting views of the cause of damage. So, I've thought carefully about the reports, and I'm persuaded by AIL's surveyor's comment that there was no evidence of washout. That is, if the soil was saturated to such an extent that it caused the wall footings to splay, as indicated by Ms R's specialist, like AIL's surveyor I'd expect to see more overall damage to the wall and the garden it retained than the upper half of just part of the wall falling inwards.

In my provisional decision, I relied on Ms R's specialist to explain why I didn't think a single event caused the damage. Because of that I didn't address her concerns about the skill of AIL's surveyor. I've looked at the surveyor's qualifications, and I don't share Ms R's concerns. I'm satisfied AIL appointed suitably qualified surveyors to assess the wall damage.

Overall, the evidence presented doesn't show that Ms R has demonstrated she has a valid claim under the under the policy storm peril. Therefore, unless she can provide evidence to AIL that her wall is covered under another insured peril, I see no reason to ask it to do any more.

### **My final decision**

For the reasons I've explained above, and in my provisional decision, I don't uphold Ms R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 7 August 2023.

Debra Vaughan  
**Ombudsman**