

The complaint

Mr and Mrs S have complained that Lloyds Bank General Insurance Limited ('Lloyds') declined their claim for storm damage under their home insurance policy.

For the avoidance of doubt the term 'Lloyds' includes reference to its agents and representatives in this final decision.

What happened

At the end of January 2022, a section of render fell from an external wall at the back of Mr and Mrs S's property during storm conditions. They telephoned Lloyds to report the damage and Lloyds instructed agents to visit the property to assess whether the damage was covered by the relevant home insurance policy.

Mr and Mrs S were convinced that the storm conditions had caused the damage and that there had been no pre-existing issues with the render. Mr S said the damaged area was approximately 1 foot by 4 foot and fascia boards had also been damaged. Lloyds agreed that there had been violent storm force gusts in the area at the end of January 2022. It said that if it was found that the damage was caused by wear and tear, then this wouldn't be covered by the policy. It concluded that the damage had indeed been caused by wear and tear.

Mr and Mrs S complained that Lloyds had declined to cover the damage under the relevant policy as it considered that the storm had highlighted pre-existing issues. Lloyds maintained its decision to decline Mr and Mrs S's claim. However, it paid Mr and Mrs S the sum of £350 in compensation as it agreed that it had been responsible for certain service failures during the handling of the claim.

Mr and Mrs S were unhappy about the outcome of their complaint to Lloyds and referred their complaint to this service. However, the relevant investigator didn't uphold Mr and Mrs S's complaint. He didn't think that Lloyds had acted in an unfair or unreasonable way in declining the claim, and in paying compensation for service failures. He noted Lloyds' view that the storm wasn't the main cause of damage and was caused by underlying issues. He appreciated Mr and Mrs S's thoughts, but said he hadn't seen anything persuasive, such as another professional opinion, to say that Lloyds' conclusions had been wrong.

Mr and Mrs S remained unhappy with the outcome of their complaint. They wanted Lloyds to settle their claim and also to increase its compensation payment. In the circumstances, the case has been referred to me to make a final, independent decision in my role as Ombudsman.

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 first issue to be determined is whether Lloyds acted in a fair and reasonable manner in its application of the policy terms and conditions when it declined Mr and Mrs S's claim for

damage to their property. The second issue to be determined is whether Lloyds acted in a fair and reasonable manner as to the amount of compensation paid for its acknowledged service failures. I've concluded that Lloyds didn't act in an unfair and unreasonable manner in relation to either issue, and I'll explain why. In reaching this final decision, I've considered the parties' submissions as summarised below. I turn firstly to Mr and Mrs S's submissions.

Mr and Mrs S felt very strongly that Lloyds were wrong to say that the damage to their property was due to underlying issues. Mr S said that he'd spoken to his appointed contractor who advised that his letter confirming that the damage was due to storm damage, together with his estimate, was sufficient for any insurance provider. Mr S made it clear that Lloyds' agent had himself said that *'there is no definitive proof for the cause of damage'*. He was delighted that Lloyds' surveyor had found no problems with the render at ground level and was *'happy and reassured that he found nothing wrong.'* Mr S said that he also agreed with Lloyds' surveyor that it was unlikely that the original roughcasting used polymer bonding as a technique 50 years ago. Whilst polymer bonding may be an improvement, this didn't mean that the render was faulty. He said that in his housing estate, there were *'massive 3 storey gable ends with 50+ years' old roughcasting which show no signs of deterioration.'*

Mr S explained that; *'following the laying of bricks 50 or so years ago, a scratch coat of cement had been applied to the wall and then scored whilst still wet. To this was then applied the harling chips.'* He said that this was, and still is, with the addition of polymer, standard practice and that the surveyor may not have appreciated differences in building regulations in different areas. He said that a second surveyor from the relevant area had made no mention of a problem in this regard. Mr S made the point that there were no signs of streaks, runs or staining on the exposed brickwork *'which would be expected if water had been present.'* He felt that Lloyds' surveyor had *'muddied'* the issue by the introduction of comments about mould and lichen. He thought the contention that the water had washed the brickwork, to be highly questionable.

As to the material which fell during the relevant incident, Mr S said that he'd produced evidence that it was a wind of *'freakish strength'* that led to the collapse of a considerable amount of masonry, which fell entirely on Mr and Mrs S's side of a wall which was shared with a neighbour. He said: *'It would take an extreme storm to shift such weighty masonry even to achieve a 60/40 or 70/30 split. But to achieve a 100% fall on my side clearly indicates a ferocity that probably occurs only once in 50 -100 years.'* He said that there had been coping in place before it was blown out by the storm and, according to Lloyds' surveyor, would have provided shelter to the area immediately under it.

Mr S said that the top of the wall was of a plastic-type material and therefore waterproof. The other two roughcast sides were undamaged despite also being saturated by wind-driven rain. Mr S considered that if they were in the same saturated state as it was alleged the front face was in, then they would also have detached and fallen. He thought: *'it was the sheer force of the freak blast that hit the front face that was the sole reason for its collapse.'* Mr S accepted there had been a historic small repair but said there was no evidence that this was faulty, as it was a professional repair. He pointed out that Lloyds' agent described it as being *'stronger than the original materials'* and didn't attribute the damage to this previous repair.

As to the fascia board, although not part of the claim, Mr S said that it ran the whole width of the house and was totally unprotected from the elements. It would have been subjected to the same wind force that hit the much narrower wall. It had been cleaned by a firm prior to the January storm and was intact at the time, with no sign of any issues. He considered that it was entirely possible for the fascia board to have been partially detached in the storm. Mr S said he'd kept newspaper photographs of storm damage in the UK at the time, showing enormous trees blown onto cars and whole roofs ripped off. He made the point that if a

whole roof could be ripped off a building, then it was probable that less robust fixtures such as fascia boards could suffer storm damage.

Mr and Mrs S pointed out in the strongest terms that Lloyds' agents had made a mistake in referencing a non-existent chimney stack and guttering, and he also referred to a '*misjudgment*' in Lloyds' initial on-site survey where the agent had referred to a repair to a neighbour's wall. Mr S said that he'd had to correct the agent as this wasn't the case. He added that '*if such a serious misjudgement could be made on an unconnected and separate wall, then did it not call into question his judgement on the storm damage wall?*' Mr and Mrs S therefore questioned the quality and competence of the surveying in this case.

Mr and Mrs S were also very unhappy about the way in which Lloyds had responded at various points during the claims journey, and the journey had proved to be an extremely difficult. They felt that Lloyds' responses had been selective, contradictory, inaccurate and had omitted key issues. Mr and Mrs S felt that in dealing with Lloyds' agents', their concerns fell '*between two stools*.' Agents had failed to send '*a comprehensive, detailed, point by point reply*,' as promised, and this promised response still hadn't been received. They thought that as Lloyds had issued four final response letters, this exemplified its poor administration.

Mr and Mrs S were also unhappy about the many months it took for Lloyds to respond to them without explanation or apology, and failure to provide an update on progress, particularly in view of their age and health issues. They felt Lloyds had broken promises, for instance to send correspondence by first class recorded delivery. They thought that Lloyds had deceived them, ignored correspondence and telephone calls, distorted the truth, and twisted their words. Mr S felt that there was a clear and deliberate ploy by Lloyds to make him look unreasonable, whereas he said; '*the truth is exactly the opposite*'. In summary, Mr and Mrs S felt that Lloyds had provided a service which was '*unfit for purpose*'.

In conclusion, Mr and Mrs S said that stress caused, and the impact on their mental well-being, had been immense, and they referenced Lloyds' duty of care to its customers.

I now turn to Lloyds' submissions regarding this case. Lloyds didn't dispute that there were storm conditions at the date of loss. However, it considered that the damage wasn't consistent with a one-off storm event and that the weather conditions had instead highlighted a pre-existing issue. It said that the damage was consistent with age-related wear and tear, or a gradually operating cause. It considered that the render had fallen '*as it had already de-bonded*' and that the de-bonding was due to the render adhesion gradually breaking down '*by the accumulation of rain and frost in such an exposed position. This would have occurred over a prolonged period of time*.' It stated that the policy didn't provide cover in such cases. It then referred to relevant provisions of the policy booklet and the opinions of its specialists.

Lloyds said that its structural expert had examined the exposed wall which showed that the brickwork hadn't been 'keyed' to ensure effective adherence of the render to a vertical surface. It said that the render bond would break down over time, '*especially in an exposed position where the wall is regularly wet or where it is exposed to frost. Moisture will make render unsound. Wind will not*.' It said that the area of wall was open to rain on four sides and couldn't be more exposed. It added that rainfall would hit each face, hit the top of the wall, and would drain down behind the render surface. Whilst the condition of the render at the bottom of the wall may have been good, this couldn't be compared to the exposed top.

Lloyds also referred to a previous repair and a difference in render which evidenced that other areas of render had previously failed. It said that the '*failing is either a total detachment of the render and the application of a new different (non- matching) render or it is the de-bonding of the outer render revealing the darker base coat*.' It also considered that it might be a combination of two. It referred to a dark 'shadow line' under the edge of the existing

render which it said evidenced loose render directly above the exposed brick work. It said this meant that the render wasn't fully adhered to the wall, even where it remained in place.

Lloyds' expert remained of the view that the render wasn't keyed in effectively to the masonry and that, over time, water running behind the render had gradually affected the bond *'to the extent where the render has become detached and other areas of render have become unsound.'* The structural expert originally thought there was no coping, but then advised that if coping was present, it wouldn't be effective in keeping the wall beneath it dry. Whilst the area immediately under the coping would be sheltered, he considered it would still be saturated by wind-driven rain and exposed to weathering, particularly where the render had become detached.

The structural expert also thought that the absence of mould or lichen didn't mean that the brickwork was dry or unaffected long term by water penetration. He thought that water percolating behind a surface was likely to give the masonry a *'clean'* appearance. In addition, Lloyds said that mould was usually encountered in internal spaces. As to the fascia board, it noted that the storm-force wind had either removed retaining screws or had caused the board to burst through the screw heads. From its review of the relevant photographs and the position of the fascia board set back from the wall, it considered that this wouldn't have happened, unless there was already an underlying issue. Lloyds concluded that it had assessed the claim numerous times but had reached the same outcome each time.

As to the service issues raised by Mr and Mrs S, Lloyds agreed that it had been responsible for certain service failures. It agreed that there had been a lack of communication and lack of response on occasion, which had caused unnecessary stress for Mr and Mrs S. In particular, it accepted that its agents had failed on numerous occasions to answer Mr S's questions. It apologised to Mr and Mrs S and paid £350 compensation for distress and inconvenience in this respect.

Lloyds also provided its case-notes regarding this matter. These recorded that Mr S had been intending to obtain a *'cause of damage'* report from his appointed contractor, which he would send to Lloyds' agent in order that it could reconsider his claim. It appears that the contractor was unwilling to produce another document but was happy for Lloyds to contact him to discuss his findings. The notes also show that Mr S called Lloyds to request the original final response letter three times, and was also promised call backs and didn't receive them. Lloyds acknowledged that this caused Mr and Mrs S a great deal of stress.

Finally, I've received two reports from Lloyds' agents. The first is dated February 2022 and states: *'There is no one off storm damage to the render. The damage noted is consistent with age related wear and tear/gradually operating cause, highlighted by the recent weather conditions. There is no internal damage. The claim has been repudiated and the policyholder reluctantly accepted our findings.'* The second report identifies *'sections of render which have failed before.'* It noted that this was significant because it was only a short distance from the defect now revealed.

I've carefully considered all the above evidence and submissions. The starting point for determining cases of this nature is the wording of the policy's terms and conditions, as the wording forms the basis of the contract between the customer and the insurer. In this case the policy does cover storm damage in principle. The policy also underlines what is not insured under the policy, and this is the crux of the matter in this case. A *'gradually operating cause'* is not insured, and this includes decay or decomposition. In addition, *'Wear and tear'* is not insured, and this is defined as *'damage that naturally and inevitably occurs as a result of normal wear or ageing.'* Examples of wear and tear are given and include weathering which may cause cracking, and damage due to exposure to the weather and elements.

In considering storm damage, our service has a three-step approach. We firstly consider whether storm conditions occurred on or around the date the damage was said to have happened. In this case, both parties accept that a storm occurred, and Lloyds established that violent wind gusts of 69 mph had been recorded for the relevant area at the end of January 2022. I therefore conclude that there were storm conditions at the relevant time.

The second question for determination is whether the damage claimed is consistent with damage a storm typically causes. Clearly, storm damage can cause roof and structural damage to property. Whilst it would be unusual for secure render to be blown off in violent storms, I consider that a combination of factors could feasibly lead to such damage.

The third and key question for determination is whether in this case the storm conditions were the main, or predominant, cause of the damage to Mr and Mrs S's property. In making this determination, the evidence of experts on behalf of each party is crucial. Unfortunately, Mr S's surveyor or contractor didn't produce a '*cause of damage*' report as Lloyds had requested at the outset. He provided an estimate, and also, a letter to confirm that the damage had been caused by storm conditions. He considered that this would be sufficient for any insurer. However, this is not the case. It's expected that an assertion as to the cause of damage is backed up with analysis, explanation, and evidence by the relevant expert. Unfortunately, Mr and Mrs S' contractor didn't provide this and no further, or alternative expert report has been produced by Mr and Mrs S.

The reports produced by Lloyds' agents did provide a detailed analysis. I agree with Mr S that the reports appear to be flawed in certain respects, and I accept his evidence in relation to the errors made. I have accordingly placed less weight upon the reports than would otherwise be the case. In the absence of contrary evidence, the reports are nevertheless persuasive in relation to the key issues, particularly when considered in conjunction with the available photographic evidence. They refer to an area of previously replaced render, close to the area of render which fell. This isn't disputed by Mr and Mrs S. I'm persuaded that this indicates previous failure of render. I'm therefore satisfied on the balance of probabilities, that there were signs of pre-existing deterioration to the render.

I acknowledge Mr S's arguments about different methodologies for 'keying in' and that the original method may well have been adequate at the time. Nevertheless, Mr S has also conceded that the render may well be over 50 years old. I consider that, on the balance of probabilities, this supports the view that the render was showing signs of wear and tear. I also note that the wall in question was in an exposed area and was likely to have been affected by weather over a period of many years. I find the relevant Lloyds' report persuasive in its conclusion that *'the de-bonding happened because the render adhesion gradually broke down due to rain and frost in such an exposed position.'*

In conclusion, I consider that the render was old and not in the best condition and was reaching the end of its life. As to the predominant reason for the damage, storm conditions undoubtedly played a part in the render collapsing from the wall. However, on the balance of probabilities, I'm satisfied that the gradual de-bonding, deterioration and wear and tear of the render and adhesion to the wall was the main and dominant cause of the damage. I consider that the storm winds simply highlighted this pre-existing issue, and the render was blown off as it was no longer secure. As such, I can't say that Lloyds acted in an unfair or unreasonable manner in declining the claim.

As to the service failures experienced by Mr and Mrs S, I note that these took place following Lloyds' initial decision to decline their claim, due to its conclusion that the predominant cause of the damage was wear and tear. Whilst I recognise that Lloyds issued a number of final response letters, its conclusion on the substantive issue has been consistent throughout. I

consider that this was a reasonable conclusion, and that Lloyds had made efforts to respond to Mr S's continued correspondence and disagreement with the decision. Lloyds accepted that it hadn't responded as promised, and that there were delays in communication. In accordance with our published guidance, I'm therefore satisfied that Lloyds' offer of £350 compensation in total was a fair offer for the type of administrative failures identified and for the period in question, bearing in mind that I've determined that Lloyds hadn't acted in an unfair or unreasonable manner in relation to the substantive issue.

I appreciate that Mr and Mrs S will be extremely disappointed by this final decision, as they feel so strongly that Lloyds shouldn't have declined their claim. The communication failures following Lloyds' decision will have exacerbated their disappointment. Mr S clearly expended a great deal of time and effort in communicating his detailed complaint to Lloyds and to this service. I also appreciate that Mr S is adamant that the predominant cause of the render collapse was due to storm conditions, and that any contrary view would be unfair and unreasonable. However, my final independent decision is based upon the evidence presented by the parties. I note that the parties were given the opportunity to present further evidence should they so wish following issue of the investigator's view.

In conclusion, I'm satisfied that in this case, the facts and evidence demonstrate on the balance of probabilities that the predominant cause of damage here was the underlying state and deterioration of the render's binding to the wall. In the circumstances, I can't say that Lloyds has acted in an unfair or unreasonable manner in declining Mr and Mrs S's claim.

My final decision

For the reasons given above, I don't uphold Mr and Mrs S's complaint and I don't require Lloyds Bank General Insurance Limited to do any more in response to their complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 17 December 2023.

Claire Jones
Ombudsman