

The complaint

Mr E complains that Aviva Insurance Limited rejected a claim on his buildings insurance policy.

What happened

Mr E made a claim on his buildings insurance policy. He told Aviva there were two issues he wanted to claim for:

- there were cracks in his garage floor that he believed were caused by his neighbour's pond; and
- his neighbour's ivy had blocked the guttering of his garage, causing rainwater to flood and cause damage.

Aviva visited his home to inspect the damage and then said it wouldn't be covered, because no insured event had taken place. Mr E complained about the decision but Aviva didn't change its position.

In its final response to his complaint Aviva said:

- photos of the property showed the damage wasn't due to a one-off insurable event;
- there was ivy in the neighbour's garden which had grown into the guttering causing it to become blocked;
- there was damage to the garage floor but it wasn't consistent with an insurable peril – the policy provided cover for 10 specific events and none of these had happened.

When Mr E then referred the complaint to this Service, our investigator didn't think it should be upheld. She said he hadn't shown the damage was caused by an insured event.

Mr E disagrees and has requested an ombudsman's decision. He says the investigator ignored his evidence that the damage was caused by his neighbours and, as the policy covers him for flood, storm and malicious damage, he should be covered for what's happened.

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.

Mr E has referred to providing further information. Having considered the policy terms and the information Aviva relied on to make its decision, together with the evidence Mr E has provided, I'm satisfied this is enough for me to determine the complaint.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress; and not unreasonably reject a claim. They should settle claims promptly once settlement terms are agreed.

Mr E's policy covers him for certain events, including storm or flood, and damage caused by malicious people or vandals. But it doesn't cover "wear and tear" or damage that happens gradually. And the policy document explains:

"It is your responsibility to look after and regularly maintain your property. Your policy is intended to cover you against unforeseen events like fire or theft. It does not cover wear and tear or damage which happens gradually over a period of time. Areas commonly prone to 'wear and tear' on a building include guttering, flat roofs, fascia boards and boundary walls, and these should all be checked on a regular basis."

In the first instance, it's for the policyholder to show they have a valid claim. As with most insurance, Mr E's policy only provides cover for certain types of events, as set out in the policy terms. Looking at the insured perils listed in the policy terms, the only ones that would be relevant here are damage caused by a storm or flood, and malicious damage. So to be covered Mr E needs to show his property was damaged as a result of a storm or flood; or malicious damage by his neighbours. These are the only insured events in the policy that might apply to what's happened.

Aviva arranged an inspection. Looking at the report from the visit and photographs of the damage, these indicate the damage has occurred gradually over a period of time. There's no evidence damage was caused as a result of a storm or a sudden flood.

Some damage may be due to the gutter becoming blocked as a result of overgrowing ivy in the neighbour's garden. But again, that isn't something sudden; it's something that happened gradually with the ivy not being cut back over a period of time. And the evidence doesn't show the neighbour deliberately did that to cause damage. So it isn't a case of malicious damage.

I haven't seen anything to suggest damage has been caused by a one-off insured event. I appreciate it's very upsetting for Mr E but in these circumstances, it was reasonable for Aviva to decline the claim in line with the policy terms and conditions.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 15 December 2023.

Peter Whiteley
Ombudsman