

## The complaint

Mr and Mrs S complain that Legal & General Insurance Limited ("L&G") unfairly declined a claim they submitted for damage to their property on a buildings insurance policy.

## What happened

Mr and Mrs S rent out a property and insure it with L&G. Following a period of bad weather, there was damage to the roof and water had caused an internal ceiling to collapse.

L&G initially declined their claim as it said the weather conditions at the time of the damage hadn't amounted to a storm. But it changed its view and appointed an agent to assess the damage and determine whether the claim should be covered.

After the agent completed its enquiries, L&G declined to cover the claim. It said the damage to the roof and internal damage was caused by wear and tear issues, not a storm. Mr and Mrs S disputed this. They said the roof had been damaged by the storm, not wear and tear. They also disputed L&G's conclusion that the internal damage had been caused by wear and tear.

When L&G maintained its position, Mr and Mrs S brought their complaint to us. Our investigator said he didn't think L&G had done anything wrong. He said the agent's report gave details as to why it thought the damage had been caused by wear and tear, whereas a roofer appointed by Mr and Mrs S hadn't explained why it thought the damage was caused by the storm. Mr and Mrs S didn't accept this, and asked for an ombudsman's decision.

## 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.

Our service normally looks at three questions when dealing with a complaint about storm damage. Firstly, we look at whether there were storm conditions at the time of the damage. Then we'll consider whether the damage claimed for is typical of storm damage. And finally we'll look at whether the storm is the main cause of the damage being claimed.

There was initially a dispute as to whether the conditions at the time the damage occurred constituted a storm. Mr and Mrs S' policy defines a storm as "*strong winds of 41 knots/47 mph or more, sometimes accompanied by rain, hail or snow.*" L&G said the nearest weather station to the property recorded a wind speed of 46mph, but was willing to accept the winds may have been higher at the property. This isn't in dispute now, so I accept the conditions at the time constituted a storm for the purposes of this policy.

I'm also satisfied that the damage is consistent with what could be caused by a storm. There's evidence that roof tiles have moved from their original position and some have fallen from the roof onto the ground below. I think this is consistent with damage that could be caused by high winds. And if the roof has been damaged, I think it's plausible that water could then enter the property and cause damage internally.

So I now need to consider whether I'm satisfied that the storm was the main cause of the damage being claimed. And this is where the dispute arises between Mr and Mrs S and L&G. The policy says there's no cover for "*wear and tear, maintenance costs e.g. loose roof tiles, damage that happens over time e.g. damp, rot*"

Mr and Mrs S maintain the property was in a good state of repair. But L&G argue there was evidence of moisture causing damp and rot, which caused the ceiling to collapse, rather than the ingress of water after the roof was damaged. And it also disputes that the storm caused the tiles to move and fall to the ground. It says the tiles were moved in the high winds because nails which secured them failed due to being in a poor condition.

L&G relies on its agent's report which detailed why it thought nail fatigue caused the tiles to move. The report particularly noted that nail holes in the tiles were intact, and I can see that photos we've been provided show this. This suggests that the nails have failed, rather than remaining in place when the tiles have moved. If the nails have failed, that would be considered wear and tear, and so damage caused as a result wouldn't be covered by the policy. I'm aware Mr and Mrs S have provided photos showing tiles with damaged nail holes and an email from a roofer saying the damage was consistent with storm damage.

So it may be that some of the tiles were damaged by the storm. But the evidence of the roofer doesn't give any detail about the tiles where the holes were consistent with nail fatigue. On balance I'm not persuaded that the main cause of damage to the roof was the storm. There's enough evidence from the agent's findings to suggest wear and tear was a significant cause of the damage. And the policy specifically says damage caused by wear and tear, including loose tiles, isn't covered.

L&G also says that the cause of the internal damage was due to the ingress of water over a period of time. In support of this it relies on its agents findings that there was staining and mould in the ceiling which collapsed. I'm satisfied based on this evidence that the damage was caused by water entering the roof and ceiling area over time. The policy specifically excludes damage that occurs over time.

So I'm satisfied L&G's shown that the main cause of the damage claimed wasn't the storm. The evidence supports L&G's argument that the damage was caused by wear and tear over time. And the policy terms and conditions state that damage caused in that way isn't covered. I don't think L&G have acted unreasonably by declining cover for the claim.

### **My final decision**

It's my final decision not to uphold the 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 13 March 2020.

Ben Williams  
**Ombudsman**