

The complaint

Miss C has complained that St Andrew's Insurance Plc (St Andrew's) unfairly declined a claim for storm damage under a home insurance policy.

What happened

Miss C owned a property she rented out to tenants. The property's dormer roof came off during a storm. Miss C contacted St Andrew's to make a claim. St Andrew's sent a contractor who assessed the roof and told Miss C the claim would be covered. However, following a review after the visit, St Andrew's declined the claim because it said the damage was the result of poor workmanship.

When Miss C complained, St Andrew's maintained its decision to decline the claim but offered £250 compensation. It said Miss C shouldn't have been told the claim had been accepted.

So, Miss C complained to this service. Our investigator didn't uphold the complaint. She said it was reasonable for St Andrew's to decline the claim because of poor workmanship.

As Miss C didn't agree, the complaint was referred to me.

I issued my provisional decision on 1 August 2022. In my provisional decision, I explained the reasons why I was planning to uphold the complaint. I said:

When we look at a storm claim complaint, there are three main issues we consider:

- 1. do we agree that storm conditions occurred on or around the date the damage is said to have happened?*
- 2. is the damage claimed for consistent with damage a storm typically causes?*
- 3. were the storm conditions the main cause of the damage?*

We're only likely to uphold a complaint where the answer to all three questions is yes.

For the first question, I checked weather reports around the time of the damage. This showed a maximum windspeed of 83mph in the area the property was located, which I note is regarded as hurricane force winds. So, I think the answer to the first question is yes.

So, I've thought about the second question. Hurricane force winds can cause devastation, which I think includes damaging a roof and potentially causing it to detach. So, I think the answer to this question is also yes.

So, I've also thought about the third question. I've read the survey findings. These said:

"Inspection identified a flat dormer roof to the second floor of the property and on inspection it is evident that the felt roof covering, decking and insulation has come away from the roof with the debris visible to the insured garden area. on viewing it is evident that the insulation has been laid over the original decking boards and then boarded

above finishing with felt covering. We have concerns in covering this claim on your behalf due to the construction as we are unable to confirm if the dislodged area of the roof had been installed correctly and fixed into the original roof whose decking boards show long term deterioration issues.”

I think this report, including the photos, showed some evidence of poor workmanship, particularly to the decking boards. However, I don't think the existence of poor workmanship in itself showed that it contributed to or caused the damage. The contractor also said: “we are unable to confirm if the dislodged area of the roof had been installed correctly and fixed into the original roof”. So, my reading of this is that the contractor didn't know one way or the other whether the roof had been correctly secured.

The overall conclusion of the contractor was “Considering all the evidence available on survey it is our considered opinion that due to concerns we have referred this claim back to yourselves” (meaning St Andrew's). So, the contractor didn't say what he thought was the most likely cause. Instead, he referred it back to St Andrew's. St Andrew's then declined the claim because it said the contractor “found the damage to not be consistent with a storm, but instead found poor workmanship”. But I haven't seen anything that showed the contractor didn't think the damage was consistent with a storm, just that there was poor workmanship.

When an insurer applies an exclusion, it needs to show why it's fair to apply it. In this instance, I don't think St Andrew's has shown that. I haven't currently seen evidence that shows the roof wasn't properly secured. Although the decking board does look as though it has deteriorated, I haven't seen anything that shows how that contributed to the roof damage, if it did at all. Even if poor workmanship did contribute to the damage, it still hasn't been shown that the storm, which was hurricane force winds, wasn't the main cause of the damage. So, I don't currently think St Andrew's can fairly apply the exclusion in order to decline the claim.

I'm also aware St Andrews has told this service that it could also have declined the claim on the basis of wear and tear. However, I haven't currently seen any evidence that the contractor found that wear and tear contributed to or caused the damage. So, I'm not currently persuaded that it would be reasonable for St Andrews to decline the claim on this basis either. That doesn't mean that St Andrews couldn't take into account any wear and tear for any settlement it might make though.

Looking at all the evidence available to me, I currently think there was a hurricane force storm and that this damaged the roof. I haven't currently seen anything that persuades me that poor workmanship was the main cause of the damage or that it was reasonable to decline the claim on this basis. I'm also not currently persuaded that wear and tear was the cause of the damage. As a result, I currently intend to say that St Andrew's should reconsider the claim without applying the exclusion for poor workmanship or wear and tear. Having done so, if St Andrew's makes a cash settlement for the claim, I currently intend to say it should pay interest on that amount from the date on which the claim was first made because Miss C has lost use of that money.

I've also thought about compensation. I'm aware St Andrew's already paid Miss C £250 compensation because she shouldn't have been told the outcome of the survey during the visit. I think that was a fair way for St Andrew's to respond to what happened. I don't currently intend to say that St Andrew's should pay any further compensation, as I think the amount it has already paid is in line with what I would have required it to pay.

I asked both parties to send me any more information or evidence they wanted me to look at by 29 August 2022.

Miss C replied and, in summary, said:

- It was her understanding that I intended to uphold the complaint and that St Andrews should pay out with any interest on the claim.
- Other properties in the same street had also been damaged.
- How she had found the person who had fitted the flat roof.
- There had been three red alerts for storms in the UK, including in another city.

RSA responded and asked for the details that showed the 83mph winds. It also provided comments from a surveyor which I have summarised:

- The surveyor briefly described the construction of the roof and when it was installed. They described the roof replacement work as “*unorthodox*” and said it wasn’t in accordance with good building practice. They considered laying a new flat roof system on top of the original failed system as a clear example of defective work.
- The surveyor said the roof membrane and decking showed signs of advanced long-term deterioration and decay and should have been removed in 2017.
- The fixing details relied on the good structural integrity of the existing decking to hold the fixing methods in place. The performance of the fixings would have been compromised from the start.
- They described how the insulation had been laid to create a ‘cold’ flat felt roof system, which meant condensation would build up, resulting in further gradual decay and deterioration to the original decking. They referred to the building regulation requirements, which included that it was necessary to provide appropriate ventilation from below to prevent the roof decking becoming wet and rotting. Because the original flat roof system was still in place, it wasn’t possible to introduce the required ventilation.
- The wind speeds weren’t the cause of the roof failing. Flat roofs have a high level of resistance to the effects of wind forces. Genuine storm damage was also normally evidenced at corners and long edges. This wasn’t the case here.
- The cause of the roof failure was twofold. The new flat roof was laid on top of an already failed and deteriorated flat roof and the insulation added below the decking without adequate ventilation, which had caused condensation and further rot and deterioration.
- The wind speeds had merely highlighted the level of the roof’s deterioration and weakness caused by the defects, rather than causing it.

RSA was provided with evidence of the windspeeds and invited to comment further. It didn’t reply.

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 to uphold this complaint and for the reasons given in my provisional decision. As part of that I have considered the comments from both parties. These don’t change how I think this complaint should be resolved.

In my view, the main issue highlighted with the construction of the roof is whether the existing surface was capable of properly supporting the replacement roof. The original report said the surveyor was “*unable to confirm if the dislodged area of the roof had been installed correctly and fixed into the original roof whose decking boards show long term deterioration issues*”. So, the original surveyor seemed unable to find evidence one way or the other of how the roof had been fixed into the original roofing. The surveyor also didn’t highlight any

areas of the roof that suggested it had detached due to fixture failings that could be attributed to poor workmanship.

I'm aware that more recent comments from another surveyor said that the construction of the replacement roof, and poor ventilation, would have been defective work. But, this still didn't show where the fixings had failed due to poor workmanship. I also still haven't seen evidence that the roof wasn't properly secured. This doesn't mean that poor workmanship didn't contribute in any way to the damage, but I remain unpersuaded that the existence of poor workmanship meant it was therefore the main cause of the damage.

The more recent comments from a surveyor also said a storm would normally cause damage to the edges and corners of a flat roof. I've looked again at the photos. These seem to have been taken from one end of the roof and show a limited part of some of the edges and don't show the corners of the roof. So, I don't think it's fair to say there is no evidence of damage to the edges and corners given only very limited photos were taken of those parts of the roof.

Hurricane force winds can cause extensive damage and, from what I've seen, there were significant windspeeds, up to 83mph, around the time of the damage. Based on everything I've seen, I remain of the view that there wasn't sufficient evidence to show that poor workmanship or wear and tear were the main cause of the damage or that it was fair to apply these exclusions.

Putting things right

I require St Andrew's to reconsider the claim without applying exclusions for poor workmanship or wear and tear. If a cash settlement is paid for the claim, St Andrew's should pay interest on that amount from the date on which the claim was first made because Miss C lost use of that money.

My final decision

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint. I require St Andrew's Insurance Plc to:

- Reconsider the claim for storm damage in line with the remaining terms and conditions of the policy, without applying the exclusion for poor workmanship or wear and tear.
- If a cash settlement is paid to settle the claim, pay 8% simple interest on that amount from the date on which the claim was first made to the date on which the payment is made.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 11 October 2022.

Louise O'Sullivan
Ombudsman