

## **The complaint**

Mr D complained that Admiral Insurance (Gibraltar) Limited (“Admiral”) unfairly declined his claim for damage following a storm under his home insurance policy.

## **What happened**

Mr D made a claim to Admiral when he noticed internal damage to his kitchen ceiling and around his kitchen window following bad weather.

Admiral appointed a surveyor to validate the damage. Admiral decided to decline the claim as it said storm conditions were not met and it said its surveyor’s report identified wear and tear as the cause of the damage. Admiral said the claim wasn’t covered by the policy.

Mr D didn’t think the surveyor’s report was particularly convincing and didn’t think it was consistent with what he was told by the surveyor at the time of the visit. Mr D said he’d experienced no problems with the roof until the bad weather came.

Our investigator decided to uphold the complaint. He didn’t think the claim had been properly considered – he thought the damage was by rainwater entering through the roof. He said there was evidence of storm conditions around the time of the reported incident and he didn’t think Admiral had proven wear and tear was the main cause of damage. So, he thought the claim should be re-considered. Admiral disagreed, so the case has been referred to an ombudsman.

## **My initial thinking (first provisional decision)**

I issued a provisional decision on this on 8 November 2022. I said:

*“When our service looks at a storm claim, there are three questions to consider:*

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

*I will use this structure to work through the complaint. I’m likely to uphold the complaint if the answer to all three is ‘yes’. If the answer to one of the questions is ‘no’, I’m unlikely to uphold the complaint.*

*Do I agree that storm conditions occurred?*

*Admiral didn’t agree that storm conditions were present at the time of the reported incident. I have checked our service’s own resources to understand what the weather conditions were like around the time of the reported incident. I can see wind gusts were recorded at 71mph on the 27 November 2021.*

*Admiral explained its definition of a storm as “wind with gusts of at least 48 knots (55mph), heavy rainfall at a rate of at least 25mm per hour, snow to a depth of at least 30cm in 24*

*hours, or hail that causes damage to hard surfaces or breaks glass”.*

*As the damage following a storm isn't always immediate or it takes time for the damage to be noticed, I think it would be reasonable to consider the conditions a week before the internal damage was noticed. As the gusts of wind reported were within Admiral's definition, I'm happy that storm conditions were present at or around the time of the reported incident. So, I will consider the next question.*

*Was the damage claimed for consistent with damage a storm typically causes?*

*When a claim is made it's the responsibility of the claimant to show damage has occurred. When there are significant winds, it can result in tiles been blown from a roof or causing them to become dislodged. However, the kitchen roof was a flat felted roof, so we haven't seen this happen here.*

*Occasionally, in particularly exposed locations you may see a felt roof blown off due to the storm conditions. However, I haven't seen any evidence provided by Mr D that there was damage to his roof because of the storm. I have viewed the picture that is available of the roof and it looks in good condition, there are no signs that the felt has become detached.*

*It's not enough for Mr D to say his roof was leaking, he needs to identify where the damage to the roof is that he is claiming for and provide evidence why he thinks the storm caused the damage (e.g. pictures and a report from his own expert).*

*I don't think Mr D has provided evidence that there is visible damage caused by the storm. So, I think it's more likely that if the rainwater did enter the property through the roof, then it's also more likely this was caused by either wear and tear as Admiral has suggested or even poor workmanship. Neither which would be covered by the policy. Therefore, I don't think Admiral has been unreasonable in declining this claim.*

*If Mr D can provide new evidence that the storm did cause damage to his roof, then I would expect Admiral to re-consider the claim based upon this evidence. Mr D would need to provide specific photographs of the damage and ideally his evidence would be accompanied by a report from his own expert roofing contractor. However, based on the evidence provided, I don't intend to uphold this complaint”.*

## **Responses to my first provisional decision**

Mr D disagreed with my initial thinking and he provided some additional information to support his complaint. Mr D said he engaged his own specialist roofer to provide a report on the condition of his property and this has provided. He said the roofer confirmed the storm caused some roof tiles to be displaced on his main roof, which led to water entering his home causing further internal damage. Mr D said the leak wasn't from the flat roof.

Mr D's additional information was shared with Admiral and it was asked to consider and respond to this. Admiral responded and said it didn't have anything further to add in relation to the appeal. It said it worked with the surveyor's report provided by its contractor.

## **My provisional decision (second provisional decision)**

I issued a second provisional decision on this on 6 December 2022. I said:

*“When I set out my first provisional decision, I didn't feel that Mr D had provided sufficient evidence the storm had damaged his property. However, I have reviewed the information Mr D has provided in his response and this has changed my thinking, so I will re-consider the*

*second and third questions I set out at the start of my first provisional decision.*

*Was the damage claimed for consistent with damage a storm typically causes?*

*I originally said there wasn't any evidence the storm had caused any damage to Mr D's property. However, Mr D has clarified that the storm dislodged some tiles from his main roof. I think wind strength recorded around the time of the reported incident would be sufficient to blow tiles or dislodge tiles from a roof. Therefore, I will now consider the next question.*

*Were the storm conditions the main cause of the damage?*

*Admiral said in its final response "the [surveyor's] report states that the cause of the water ingress is wear and tear, which is also covered within your policy booklet, under criteria where a claim is rejected:*

*'Gradual causes - any loss or damage caused by anything that happens gradually, including wear and tear....'*

*If you can supply a surveyor's report that contradicts this, we will reinvestigate this point for you".*

*Given Admiral has relied on an exclusion clause in the policy to decline the claim, I would need to see strong evidence that supports its viewpoint. However, I don't think it has provided this evidence, so I intend to uphold this complaint and I'll explain why I have reached this decision.*

*I have reviewed the surveyor's report provided by Admiral. I don't find this persuasive of wear and tear at all. The inspection report doesn't mention wear and tear and there is no commentary within the report. Admiral later confirmed "after further review and a visit from our Surveyor the evidence suggests that this is not a one-off event. There is blistering around the window in the bedroom which does suggest this is something that has occurred gradually over a period of time and there is water pooling on the roof also".*

*I don't find this later statement persuasive. I think if the surveyor had these observations, then these should have been clearly set out in the report with a professional explanation as to why wear and tear was the correct conclusion. I don't think Admiral has been reasonable in declining the claim based on the limited information contained in the surveyor's report.*

*In its final response Admiral said it would re-consider the claim if Mr D provided contradictory evidence. This evidence was provided by Mr D by his own specialist roofer and shared with Admiral. Unfortunately, Admiral said it only considered its own surveyor's report. I don't think this is a fair approach to this claim. It hasn't done what it said it would and consider this information.*

*I have considered this information. Mr D's roofer said "water damage on kitchen ceiling and walls was caused by tiles blown loose and ripping the felt above the upstairs en-suite bathroom which was not noticed by [the surveyor]. Water from the main house roof has run through the brickwork causing water damage to the kitchen ceiling and wall. [Admiral's surveyor] advised the owners of the property to secure tarpaulin to the undamaged flat roof. This now requires felting due to the battens used to secure the tarpaulin cover. The main house roof has been fixed and the lead flashings re-fitted".*

*I find the roofer's report more persuasive. The commentary explains what has happened and supports what I can see in the photographs provided by Mr D. Therefore, I don't think Admiral has been fair in declining this claim. I don't think Admiral has proven wear and tear.*

*And I think Mr D has proven the storm was the main cause of the damage. Therefore, I intend for Admiral to settle this claim – including: the costs already incurred for the repairs carried out to the main roof (on production of valid receipts) and for repairs to the internal damage caused by the storm. As Admiral hasn't provided evidence of wear and tear, there shouldn't be costs excluded for this. As Mr D has been without the money he's paid out for repairs to his main roof, I intend Admiral to add 8% simple interest to this (from the date the claim was made to the date it is settled).*

*I have considered the damage that was caused to the flat roof due to the tarpaulin temporary solution that was advised to Mr D. I think if Admiral had settled the claim as it should've done then this damage wouldn't have occurred. Therefore, I intend for Admiral to settle the damage that has been made to the flat roof – either by repair if it's possible or replacement if it's not. I also intend for Admiral to refund the cost of the temporary solution (on production of valid receipts), as the expert roofer said the battens from this solution caused the damage. As Mr D has been without the money he's paid for this, I intend Admiral to add 8% simple interest (from the date the claim was made to the date it is settled).*

*Finally, I think the delays in settling the claim and Admiral's unwillingness to consider the evidence Mr D has put forward from his own roofer will have caused Mr D some distress and inconvenience. The delay in the internal repairs will have meant Mr D's property hasn't been put back to the condition he would be satisfied with. Therefore, I intend to award £300 compensation for the distress and inconvenience caused. I think this would've been a frustrating time for Mr D".*

### **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 D accepted my provisional decision.

Admiral didn't respond to my provisional decision.

### **My final decision**

My final decision is that I uphold this complaint. I require Admiral Insurance (Gibraltar) Limited to:

- Settle this claim – including:
  - the costs already incurred for the repairs carried out to the main roof (on production of valid receipts), plus 8% simple interest (from the date the claim was made to the date it is settled), and
  - for the repairs to the internal damage caused by the storm (there shouldn't be costs excluded for wear and tear)
- Settle the damage that has been made to the flat roof by the temporary tarpaulin solution - either by repair if it's possible or replacement if it's not
- Refund the cost of the temporary solution (on production of valid receipts), plus 8% simple interest (from the date the claim was made to the date it is settled)
- Pay Mr D £300 compensation - for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 16 January 2023.

Pete Averill

**Ombudsman**