

## The complaint

Mr C and Miss F complain about how AA Underwriting Insurance Company Limited handled and settled a claim they made under their home insurance policy for storm damage.

## What happened

The background to this complaint, and my initial conclusions, were set out in my provisional decision dated 3 January 2023 – a copy of which is attached and forms part of this final decision.

In my provisional decision I explained why I was minded to partially uphold Mr C and Miss F's complaint. I said:

### ***“What happened***

*Mr C and Miss F hold a household insurance policy, which is underwritten by the AA. They say, between 26 and 27 November 2021, storm conditions caused damage to a rear boundary brick wall, a roller shutter door acting as a secure gate entrance and an aluminium shed.*

*Mr C and Miss F contacted the AA on 27 November 2021 on becoming aware of the damage their property had sustained. They said the damage had been caused by a recent storm and they wanted to make a claim under their policy for storm damage.*

*The AA set up a claim on behalf of Mr C and Miss F and asked them to provide photographs of the damage together with any quotes showing the cost of repair. On 29 November 2021, the AA appointed a surveyor to attend Mr C and Miss F's property and provide an opinion on the cause of damage. I'll refer to this agent as “S”.*

*S visited Mr C and Miss F's property on 22 December 2021 after making contact with them two days previously. Prior to this date, Mr C and Miss F said they'd contacted the AA on several occasions to ask it to chase S as their property has been left unsecured and exposed by the damage. They said this caused delay in how their claim was progressed. And they said, during the time their garden was unsecured, they'd suffered a burglary, other thefts had been attempted and their dogs had also kept escaping, which caused significant distress and upset.*

*After S inspected Mr C and Miss F's property it submitted a report to the AA together with photographs it had taken. This was reviewed by an in-house surveyor who thought the damage to the wall was due to the age and condition of the boundary brick wall. They also thought the roller shutter door had sustained damage because it hadn't been used appropriately. And they said the aluminium shed been damaged by falling bricks from the boundary brick wall.*

*The AA declined Mr C and Miss F's claim. It said the cause of the damage was excluded by their policy. Mr C and Miss F weren't happy with how the AA proposed to resolve their claim.*

*So, they complained that the AA wouldn't meet their claim and said they'd experienced poor service in how their claim had been progressed.*

*When the AA investigated Mr C and Miss F's concerns it maintained its stance that the damage wasn't caused by a one-off storm event as was required by their policy. It therefore didn't uphold their complaint about the way it had settled their claim. However, it accepted that Mr C and Miss F had experienced poor service in relation to the delays in S attending their property. It paid them £75 for the trouble and upset it thought this had caused.*

*Being dissatisfied with how the AA had dealt with their complaint Mr C and Miss F referred it to our service. Our investigator looked into what had happened and recommended upholding this complaint.*

*Our investigator was satisfied there'd been a storm at around the time of damage, noting this wasn't a disputed issue, and thought the AA hadn't acted fairly in declining the claim. They weren't persuaded the AA had provided enough information to our service to show that the storm wasn't the main cause of the damage. They recommended that the AA settle the claim in Mr C and Miss F's favour and pay an additional £75 compensation for the distress and inconvenience they'd experienced.*

*Mr C and Miss F agreed with our investigator's view of their complaint, but the AA didn't and asked for their complaint to be referred to an ombudsman.*

### ***What I've provisionally 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 assesses complaints independently within a fair and reasonable remit – we don't act for either a consumer or a business. And I want to assure Mr C and Miss F and the AA that, in considering this complaint, I thought very carefully about what happened here. Where the information I've got is incomplete, unclear or contradictory, as some of it is here, I must base my decision on the balance of probabilities. I'd like to thank Mr C, Miss F and the AA for the level of detail contained within their submissions. I've read and considered all the information provided and if I haven't specifically referred to a point that Mr C, Miss F or the AA have made it isn't because I haven't considered it. My decision will focus on what I think are the key issues –namely whether the AA acted reasonably in handling and determining this claim.*

*Our investigator recommended upholding this complaint because they weren't persuaded there was cogent evidence to support the AA's repudiation decision. But I disagree with that for the reasons I'll set out below.*

*Here, there's no dispute that damage occurred to Mr C and Miss F rear boundary brick wall, up and over roller shutter door and their aluminium shed. However, there's disagreement between them, the AA and its appointed agents about the cause of the damage and the correct outcome of this claim.*

*I can see that Mr C and Miss F have already incurred a cost of £4987 (including VAT) for repairs to their property for the damage they say was caused by a storm. They'd like the AA to reimburse them this cost as they believe the damage should have been covered under their policy of insurance.*

*Mr C and Miss F's policy with the AA provides cover for damage caused by a range of perils that might happen. These are specific one-off events and include storm, for example. But, for*

*a claim to be successful, the onus rests on Mr C and Miss F to show that the damage they're claiming for was caused by one of the perils listed in their policy.*

*There are three conditions that need to be met before this service would say a claim for storm damage should succeed. Those are:*

- 1. Is there evidence that there was a storm around the date of the damage?*
- 2. Is the damage consistent with what we would normally consider storm damage?*
- 3. Was the storm the main cause of the damage?*

*I have re-assessed Mr C and Miss F's complaint and all the evidence with these three questions in mind. The answer to all three questions needs to be 'yes' for this service to be able to recommend that a storm complaint is upheld.*

*In weighing up the first question, I can see that Mr C and Miss F's policy doesn't define the word 'storm'. This isn't unusual. This service takes the view that a storm generally involves violent winds, usually accompanied by rain, hail or snow.*

*Here, I don't need to consider whether the weather recorded at around the time the damage occurred meets our criteria because, as our investigator correctly identified, the AA doesn't dispute there were storm conditions in Mr C and Miss F's locality between 26 and 27 November 2021. So, I'm persuaded that I can answer question one affirmatively.*

*Turning to question two, I've thought about whether the damage claimed is consistent with damage a storm typically causes. Like our investigator, I'm satisfied that damage to a boundary brick wall, roller shutter and aluminium shed is something that could be expected following a storm. So, I'm able to answer this question affirmatively.*

*I'll turn now to the issue of whether I think the storm was the main cause of the damage in this instance.*

*As I set out in the background to this complaint, the AA instructed S to visit Mr C and Miss F's property to assist it in determining the cause of damage. I can see that Mr C and Miss F are unhappy with this decision, but S is a recognised organisation that regularly assesses property damage on behalf of insurers. So, it isn't unreasonable for the AA to use S' assistance in assessing a claim for damage following a storm.*

*S's report is not as detailed as those our service sees from other surveyors that inspect storm damage. While it includes photographs, S hasn't offered a clear opinion on the cause of damage. This is something our service would expect to see from a surveyor.*

*I understand that the AA asked an in-house surveyor to review S' report and confirm the cause of damage. This surveyor thought the damage to the wall was due to its age and condition. They said there was evidence of wear and tear from the photographs taken and thought the roller shutter had been damaged as it hadn't been used or secured appropriately. They believed the shed had been damaged by falling brickwork from the boundary wall.*

*It's clear that Mr C and Miss F disagree with this opinion. However, having seen the photographs provided to our service, I think the AA's in-house surveyor's cause of damage opinion is persuasive. I'll explain why.*

*I'm satisfied S' assessor undertook an appropriate and adequate inspection of Mr C and Miss F's property during its visit. I'm persuaded it provided sufficient information to the AA for it to determine the cause of damage. And, impartially, I think the photographs show the rear boundary wall is in a poor condition and hasn't been properly maintained. The images*

*support the view that there's age-related deterioration, which will have caused the condition of the wall to decline. This is something that happens gradually because walls are built to withstand adverse weather.*

*As Mr C and Miss F haven't submit a report from another surveyor confirming the cause of damage, I haven't seen any evidence that negates or discredits the opinion of the in-house surveyor on the cause of damage.*

*As I'm persuaded that the damage, most likely, occurred due to the pre-existing condition of the rear boundary wall I can't fairly conclude that the storm was the dominant cause of damage. This means that damage wasn't caused by a one-off storm event as required by Mr C and Miss F's policy. I think it's most likely that the adverse weather they experienced in November 2021 highlighted the pre-existing condition of their wall and caused it to worsen.*

*Based on the photographs I've seen, it's clear that, prior to the storm, the roller shutter had been used as a gate to secure Mr C and Miss F's rear garden. They say the shutter was installed by the previous owners prior to them purchasing their property in 2011 and has withstood adverse weather conditions for many years. They also state that the use of a roller shutter to secure a rear garden is extremely common within their local area.*

*The AA has argued that the roller shutter was designed for garage installation and, as such, manufactured for use in a garage type structure with walls and a roof. It believes that using the roller shutter as a gate structure was not its intended purpose and that, in doing so, the shutter had minimal support and was more exposed to the elements than it was designed to have.*

*Having weighed up both arguments, I accept what the AA say about the shutter and am persuaded that, in not using the roller shutter in the way it was intended, it's been exposed to strong winds over the years on both sides. This wouldn't have happened had the shutter been used as a door in a garage type structure as was intended. I don't think the shutter door would have blown out had it been used as a door rather than a gate. I think its use has compromised its structural integrity and caused it to destabilise, which offers a plausible explanation as to why it failed when it did.*

*Mr C and Miss F's policy booklet makes it clear that loss or damage caused by deterioration, wear and tear or damage that's happened gradually is specifically excluded under the policy. These exclusions here are in common with most home insurance policies because insurance is intended to cover the unforeseen. And something wearing out or requiring maintenance isn't unforeseen.*

*I can see from Mr C and Miss F's policy that they purchased accidental cover to their buildings. Accidental damage is defined as "unexpected and unintended damage caused by sudden and external means".*

*Here the damage to the shed was caused by falling brickwork from the boundary wall. I'm therefore going to ask the AA to consider whether a claim for accidental damage should be settled in Mr C and Miss F's favour.*

*I'm satisfied that the AA has shown that the damage that occurred to the boundary wall and roller shutter isn't covered under the terms and conditions of Mr C and Miss F's insurance policy. It follows that I don't think its decision about a claim for these items was unfair and unreasonable. And this means I'm not intending to ask it to approve that part of the claim.*

*Finally, Mr C and Miss F told our service they experienced poor service and delay in S attending their property. This has been conceded already by the AA – it's already paid them £75 for the trouble and upset this would have caused.*

*Our investigator recommended increasing that award to £150 and I agree with that. I say this because it took three weeks for S to contact Mr C and Miss F following its instruction by the AA. I've seen evidence showing that Mr C and Miss F made several requests to the AA that it chase matters with S. They couldn't have done anything more to try and expedite S' visit to their property.*

*I'm persuaded that, had S contacted Mr C and Miss F sooner, it would have, most likely, undertaken its inspection and site visit sooner. In turn, this would have meant it could have presented its report to the AA earlier, which would have resulted in a quicker repudiation decision being taken.*

*Bearing in mind what Mr C and Miss F have said about their experience, I'm persuaded that if an earlier decision had been made to repudiate this claim they'd have undertaken the repairs sooner. This would have meant their rear garden was left exposed and unsecured for a shorter period. As Mr C and Miss F experienced a burglary, attempted thefts and had to deal with their dogs escaping from the garden while it was unsecured, a faster repair would have minimised this experience. I recognise the distress and upset that delay, and its resulting consequences, is bound to have caused and I don't think the £75 compensation paid by the AA appropriately recognises this.*

*In the overall circumstances of this complaint, I'm satisfied and additional £75, as recommended by our investigator, is a reasonable amount that fairly recognises the impact the service issues with S had on Mr C and Miss F. It's consistent with our approach in similar scenarios and I haven't seen enough evidence to persuade me that a higher award is warranted here.*

*For the reasons set out above, my provisional decision is that I am minded to uphold this complaint in part – based only on the service issues Mr C and Miss F experienced. And I'm intending to direct the AA to pay them an additional £75 to recognise the trouble and upset they were caused."*

In my provisional decision, I invited both parties to send any additional evidence or comments they wished to make before I draft my final decision, which is our service's last word on this complaint.

Mr C and Miss F disputed my view that S had undertaken an appropriate and adequate inspection of the damage to their property. They said the AA's decision about their claim was based on incomplete information and an assumption that the wall wasn't in a good state of repair.

Mr C and Miss F also stated they weren't aware they could submit an independent surveyor report in support of their claim. And they thought it was unfair for me to place weight on S' report and the cause of damage opinion from the AA's in-house surveyor who considered the information S had provided.

Mr C and Miss F argued their wall wouldn't have suffered damage had there not been a storm on the night of 26 November 2021. They provided examples of media coverage and a picture showing an example of the destruction caused within their locality by the storm. And they said their shed hadn't suffered damage due to falling brickwork from the boundary wall as this has fallen outwards into the alley. Instead, they said the damage to the shed was

caused by the storm blowing off the doors and the roof in part, which had rendered the structure unsafe, unstable and unusable as a result.

When the AA responded, it stated that Mr C and Miss F had never claimed for the damage to their shed as part of the claim they'd reported on 27 November 2021. It also explained that if Mr C and Miss F wanted to pursue a claim for damage to their shed a new claim would need to be initiated.

The AA said, in the event that Mr C and Miss F claimed for the damage to their shed, it wouldn't be minded to agree that damage was caused by the storm based on the information available. It went on to state that a replacement aluminium shed would likely cost less than the policy excess and that the shed wouldn't be covered under a buildings policy unless it was bolted to the floor.

In relation to the compensation I provisionally directed the AA pay Mr C and Miss F, it stated that the home insurance industry had been severely impacted by the storm season during which there were considerable delays in surveyors attending properties. It said this was beyond its control and had impacted on all building insurers within the UK.

### **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.

I'm grateful to both Mr C, Miss F and the AA for their detailed representations about my provisional decision. Having considered the comments received and the evidence that is available to our service I'm satisfied that this final decision is fair to all parties – as it should be.

I mentioned that Mr C and Miss F provided our service with a picture and examples of media reports recording the damage caused within their locality by the storm in November 2021. I'd like to thank Mr C and Miss F for taking the trouble to send this information to me. However, I'd already explained in my provisional decision the reasons why I was satisfied a storm had occurred on the date in question. As I mentioned, this hasn't been disputed by the AA.

Mr C and Miss F disputed my view that S had undertaken an appropriate and adequate inspection of the damage to their property and thought the AA's decision about their claim was based on incomplete information and an assumption that the wall wasn't in a good state of repair. I'm afraid I don't agree with them because, while I accept that S ought to have provided an opinion on the cause of damage, an in-house surveyor assessed the damage based on the information that S had provided the AA and offered an opinion on the cause of damage.

The AA's in-house surveyor considered the photographs provided. As I explained in my provisional decision, these images support the in-house surveyor's opinion that the wall is in a poor condition and hasn't been properly maintained with evidence of age-related deterioration.

It's a reasonable and fair conclusion that improper maintenance and wear and tear will have caused the condition of the wall to decline over time. This isn't related to a storm. I remain persuaded that the AA's in-house surveyor was able to undertake a full and proper assessment of damage based on the photographs and information S had provided following its inspection of Mr C and Miss F's property.

I acknowledge Mr C and Miss F's comments that they weren't aware they could submit an independent surveyor report in support of their claim. But the onus is on a policyholder to show that the damage they're claiming for was caused by a peril listed in their policy. So, where an insurer declines to settle a claim under a peril, such as storm here, a policyholder is entitled to provide an independent report showing why the claim should be covered.

As Mr C and Miss F didn't commission an independent surveyor to assess the cause of damage or provide a report to the AA or our service, I must assess this claim based on the available evidence – as the AA did. Having done so, I think it's reasonable to place weight on the cause of damage opinion from the AA's in-house surveyor and the contents of S' report.

I'm sorry to disappoint Mr C and Miss F but, based on the available evidence, I remain persuaded that the storm wasn't the dominant cause of the damage their property suffered for the reasons outlined in my provisional decision. So, I won't be directing the AA to settle their claim for damage to their rear boundary wall or roller shutter.

I'm satisfied that the AA has thought about whether it could consider a claim for damage to Mr C and Miss F's shed as part of this complaint. But, as the damage to the shed didn't form part of the claim Mr C and Miss F reported in November 2021, the AA has said they'd need to approach it separately if they wanted to pursue a claim for their shed. It's also helpfully indicated how it would approach and assess a claim for damage to the shed if Mr C and Miss F were to make one. I'm persuaded that the AA has assisted with this matter as I asked it to.

The AA provided context regarding the delay Mr C and Miss F experienced in S contacting them and arranging to visit their home to inspect the damage caused by the storm. I acknowledge the AA's contention that there were delays impacting on all insurers as a result of the storm at the time this claim was reported. However, given the severity of Mr C and Miss F's experience during that delay, as outlined in my provisional decision, I remain persuaded that the additional compensation that I provisionally directed is fair and reasonable. I'm therefore satisfied that the AA should pay Mr C and Miss F £150 compensation overall.

### **Putting things right**

To resolve this complaint, the AA should pay Mr C and Miss F an additional £75 compensation to recognise the distress and inconvenience they experienced because of delay, taking the total award to £150.

### **My final decision**

My final decision is that I uphold this complaint in part. To resolve this complaint the AA Underwriting Insurance Company Limited should pay Mr C and Miss F £150 for the distress and inconvenience they experienced (inclusive of the previous offer).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Miss F to accept or reject my decision before 1 March 2023.

Julie Mitchell  
**Ombudsman**