

The complaint

Mr P complains about AA Underwriting Insurance Company Limited (AA) making an offer to settle a claim under his home insurance policy for damage to his property in bad weather, but then declining the claim.

References to AA include their agents who administer the policy and assess claims.

What happened

In November 2021, there were high winds around Mr P's property, which led to a fascia board falling off and breaking a phone line attached to the board. There was also damage to a fence. Mr P contacted AA to tell them about the damage and lodge a claim. AA said the damage to the fence wouldn't be considered, as fences weren't covered under the policy. They also said they'd appoint a surveyor to visit the property and assess the damage.

The surveyor visited the property. In their report they noted the fascia boards at the side of the property had come away, also damaging the phone line. They also noted a small amount of rot in the timbers behind the boards. However, they said the nature of the storm conditions at the time of the incident (as well as significant damage to neighbouring properties) suggested the proximate cause of damage was storm related. The report also noted the rot in the timbers as a pre-existing or ongoing defect/issues (that weren't peril-related).

AA then contacted Mr P to offer a cash settlement for the cost of repairing the damage (they wouldn't have appointed their own contractors to repair the damage because of the condition of the timbers behind the boards). AA offered £690.34 – less the policy excess of £200 – making a net offer of £490.34.

However, AA then reviewed the claim and decided to decline it, on the basis that while there were storm conditions at the time of the incident, the board wouldn't have fallen off if there hadn't been an underlying issue with rot of the timbers. AA also thought the photographs of the damage supported the presence of rot and their decision to decline the claim.

Mr P was unhappy at AA's decision to change their initial cash settlement offer to a decline of the claim, and that he hadn't been made aware of the decline until some two weeks after the cash settlement offer (during which time he had obtained quotes from contractors for repair work).

AA treated the issue as a complaint, which they partially upheld. In their final response, they didn't uphold the complaint about the decline of the claim, saying the damage to the boards wasn't due to the storm – the storm had simply highlighted the underlying issue of rot in the timbers. They referred to an exception in the policy for loss or damage from gradually operating causes, including deterioration and rot.

But they upheld the part of the complaint about initially offering a cash settlement to Mr P, as it shouldn't have been made before their decision to decline the claim. In recognition of the failure to manage Mr P's expectations (that the claim was being accepted, but then declined) they offered £50 in compensation.

Mr P then complained to this service. He was unhappy at AA making an offer to settle his claim, then withdrawing it. He wanted AA to honour their initial acceptance of the claim.

Our investigator initially didn't uphold the complaint, concluding AA didn't need to take any action. He thought there were storm conditions at the time of the incident and the damage consistent with that expected in a storm. But based on the surveyor's report findings that there were pre-existing issues with the rotting timbers, and the policy exclusion for gradual damage and rot, the investigator concluded AA had acted fairly in declining the claim. He also thought the £50 compensation offered by AA was fair for Mr P having been told his claim was accepted, but then declined.

Mr P disagreed with the investigator's view and requested an ombudsman review the complaint. He didn't agree that the storm wasn't the dominant cause of the damage, saying at the time of the incident the wind was coming from a northerly direction, reaching speeds of 80mph plus. The damage to his property was to the north-facing gable end and so subject to the full force of the wind. And there were no issues with the board prior to the incident and as it broke into three pieces, which was result of the high winds. He also said the surveyor was only on site for less than 10 minutes and didn't physically inspect the area of the damage. He also didn't think £50 compensation was sufficient, though it was an acknowledgement by AA of their managing the claim badly.

When I approached this complaint, I had regard to a decision I recently issued in a very similar case (with a different business) where there was rot in the timber behind a fascia board. In that case, I concluded the claim had been unfairly declined because the rot would not have been apparent and there were no obvious or visible signs of deterioration. The only way to have identified the rot would have been to remove the fascia boards and soffits to check the condition of the timber beneath. This would have potentially caused damage and I concluded it wasn't reasonable for the policyholder to do this. So, I upheld the complaint.

Having regard to this decision, our investigator reconsidered the case and issued a revised view, upholding the complaint. Having considered the previous decision alongside Mr P's views and photographs of the remaining fascia boards, he concluded Mr P wouldn't have been reasonably aware of any issue with the condition of the fascia boards before the storm conditions. And it wouldn't have been reasonable for Mr P to remove them to check the condition of the timber underneath, given the absence of signs of deterioration. Having reached this view, our investigator thought AA should reimburse Mr P for the cost he'd incurred in repairing the fascia board (£555.26 – less the policy excess of £200) together with interest. Having concluded AA had unfairly declined the claim, the investigator also thought AA should increase the amount of compensation for distress and inconvenience from £50 to £150.

AA disagreed with the investigator's revised view and asked that an ombudsman review the complaint. It has been passed to me for a 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.

My role here is to decide whether AA have acted fairly towards Mr P.

The main issue in Mr P's complaint is that AA have unfairly declined his claim for damage to the board at his property. He says the damage was caused by the storm, so his claim should have been accepted (as it was initially). AA say there was an underlying issue with rot of the

timber beneath the board, so the storm had simply highlighted the issue of rot. They say rot wouldn't be covered under the policy, as it would fall under an exclusion for damage caused by gradually operating causes.

In considering this issue, whether the damage resulted from a storm or from a pre-existing issue, there are three key issues we consider:

- Do we agree that storm conditions occurred on or around the date the damage is said to have happened?
- Is the damage claimed for consistent with damage that a storm typically causes?
- Were the storm conditions the main (or dominant) cause of the damage?

On the first question, in their final response AA accept there were storm conditions around Mr P's property at the time of the incident. Reports from the weather firm this service uses show (for the weather station nearest to Mr P's property) on the date of the incident a peak gust of 56 mph (and the conditions described as a 'dry storm'). Based on this, I've concluded there were storm conditions on the date of the incident.

On the second question, I've considered the description of the damage provided by Mr P and the surveyor's report, together with photographs of the damage. Damage to fascia boards is damage we'd expect to see in storm conditions, particularly those with high winds.

The third question is therefore key, given AA declined the claim on the grounds the cause of the damage was gradual operating cause (rot). I've considered this issue carefully, including the points made by Mr P together with the report from AA's surveyor. I've also looked at the photographs of the property, including the damaged fascia board. Taking all these things into account, I've concluded AA haven't acted fairly in declining the claim. I'll set out why I've come to this conclusion.

Firstly, as a general principle, where a policyholder makes a claim for damage or loss under a policy, the onus is on them to show there was an insured event that caused the damage or loss. In this case, given my conclusions there were storm conditions at the time of the incident, and the damage is consistent with that we'd expect to see in a storm, I think it's reasonable to conclude there was an insured event (storm) that caused damage.

However, where an insurer relies on an exclusion in the policy to decline a claim (as AA have done) then the onus is on them to show the exclusion applies. Looking at the available information and evidence, I think AA haven't done so in the specific circumstances of this case. I'll explain why I've come to this view.

In their final response, AA refer to the following policy exclusion in the *General Exceptions* section where there's the following exclusion:

"The policy does not insure the following:

- Loss or damage arising from gradual operating causes including deterioration, wear and tear, corrosion, rot or similar causes."*

AA also referred to the surveyor's report which included their finding of rot to the timbers behind the fascia boards.

Based on these points, AA say the storm wasn't the sole cause of the damage but highlighted the previous condition of the fascia boards.

I've considered AA's view alongside the points raised by Mr P in his response to our investigator's initial view, that the boards were in good condition prior to the incident. On

balance I'm persuaded by his view, rather than that of AA (and their surveyor). The photographs of the property show the remaining (undamaged) areas of fascia boards and soffits to be in a good condition. And the wooden boards beneath them wouldn't have been visible, so Mr P wouldn't have had any indication of a rot issue (and consequently need to take maintenance action). I don't think it would be reasonable to remove the fascia boards to check the condition of the boards beneath, given there weren't any obvious signs of deterioration.

Based on these conclusions, I think AA have acted unfairly to decline the claim for damage to the fascia board by applying the exclusion for gradual operating cause and rot.

Having reached these conclusions, I've thought about what AA should do to put things right. As I've concluded they didn't act fairly in declining the claim for damage to the fascia, then they should settle the claim in accordance with the remaining terms and conditions of the policy (that is, they cannot apply the exclusion for gradual deterioration and rot). Mr P says he's paid for the repair, at a cost of £555.26. That being the case, as this figure is less than the (gross) cash settlement offered by AA, then AA should reimburse Mr P for the cost of the repair (less the policy excess of £200). AA should also pay interest on the cost of repair, at a rate of 8% simple from the date Mr P paid the cost of repair to the date they reimburse him.

I've also considered what Mr P has said about the impact the incident and AA's assessment of the claim have had on him, including the stress and anxiety of the claim having been initially accepted, only to be subsequently declined. Considering all the circumstances of the case, I think AA should pay £150 compensation for distress and inconvenience.

My final decision

For the reasons set out above, it's my final decision to uphold Mr P's complaint. I require AA Underwriting Insurance Company Limited to:

- Settle Mr P's claim by reimbursing him for the cost of repair (£555.26) less the policy excess (£200).
- Pay interest on the cost of repair, at a rate of 8% simple, from the date Mr P paid the cost of repair to the date they reimburse him
- Pay Mr P £150 in compensation for distress and inconvenience.

AA Underwriting Insurance Company Limited must pay the compensation within 28 days of the date on which we tell it Mr P accepts my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 21 March 2023.

Paul King
Ombudsman