

## The complaint

Ms L complains that Fairmead Insurance Limited declined a claim she made under a home insurance policy.

## 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.

- Ms L owns a flat in a block. She got in touch with Fairmead after she discovered damage to the communal roof following a storm.
- Fairmead appointed a loss adjuster to visit the property. They did so but Ms L says they didn't inspect the roof damage – they only asked for evidence the roof had been maintained recently. Because Ms L didn't provide any such evidence, the loss adjuster declined the claim, saying Ms L hadn't met a policy condition.
- Ms L didn't think this was fair and complained. She questioned whether meeting the condition would have made any difference to the claim given the strength and duration of the storm, noting nearby properties suffered similar damage.
- Fairmead maintained the claim should be declined. It said the purpose of the condition was to ensure it didn't pay claims that had been caused by a lack of maintenance, rather than a storm. Fairmead said the roof may not have been damaged during the storm if it had been recently maintained.
- Ms L referred her complaint to this Service and provided comments from the builder who repaired the roof. They said the severity of the storm caused the damage, and it would have done so regardless of the condition or age of the roof. Noting the damage was localised to the more exposed parts of the roof, the builder said the storm would have caused more damage if the roof had been defective.
- Our investigator thought the complaint should be upheld. She wasn't satisfied it was fair for Fairmead to rely on the policy condition to decline the claim given the weather conditions at the relevant time and the builder's comments. As the roof had already been repaired, our investigator asked Fairmead to consider the costs Ms L incurred for her share of the work.
- Ms L accepted this. Fairmead didn't. It expanded on what it had previously said about the purpose of the policy condition, saying the damage may now cost more to repair than it would have done had the roof been recently maintained. It also said it had set the policy premium on the understanding policy conditions are met. If a claim is paid despite a condition not being met, it can't accurately set premiums and manage risk.
- Fairmead says it accepts the damage happened due to the storm. It's declined the claim by relying on a policy condition which says, in summary, that all flat roofs should be inspected and tested at least once every two year period and maintained

as recommended. Ms L seems to accept she hasn't met this condition. Because of that, Fairmead considers it's entitled to decline the claim.

- However, I think it's reasonable to go on to consider whether not meeting the condition is material to the claim. That is, whether it's led to Fairmead paying a claim it wouldn't have done if the condition had been met – or paying more for the claim than it would have done if the condition had been met. If Fairmead can't show that Ms L not meeting the condition has had a material impact on the claim, I'm not satisfied it would be reasonable for Fairmead to decline it.
- Fairmead seems to accept that its loss adjuster didn't inspect the roof damage. It hasn't provided a report or photos to show the condition of the roof or given any expert commentary on the damage or its cause(s).
- On the other hand, Ms L has provided the comments above from the builder who saw and repaired the damage. Their comments about the severity of the storm are supported by weather records from the relevant time, which show wind speeds of up to 78mph near to the property. Fairmead hasn't challenged these comments.
- I agree with Fairmead that with recent maintenance to the roof, it *may* not have been damaged during the storm – or it *may* have been damaged but cost less to put right. So Ms L not meeting the condition *may* be material to the claim. But Fairmead hasn't provided any evidence to show this is *likely* the case. And given the evidence provided by the builder, supported by the weather records, I'm not persuaded Fairmead has shown that Ms L not meeting the condition has likely had a material impact on the claim such that Fairmead has been disadvantaged.
- As a result, I'm not satisfied it would be fair and reasonable in the circumstances for Fairmead to decline the claim. To put things right, it should accept the claim and go on to consider how to settle it fairly, in line with the remaining terms and conditions.

### **My final decision**

I uphold this complaint. I require Fairmead Insurance Limited to accept the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 23 May 2023.

James Neville  
**Ombudsman**