

The complaint

Mr G complains that Haven Insurance Company Limited declined his claim on his home insurance policy.

What happened

Mr G had a home insurance policy with Haven. In October 2022 he made a claim after a retaining wall at his property collapsed into his neighbour's garden.

Haven declined the claim under the landslip cover in the policy as it said retaining walls were excluded from unless it impacted the rest of the property. Mr G wasn't happy with this as he said a landslip hadn't caused the wall to collapse but instead the collapse had caused the landslip of the earth the wall contained. He also instructed his own expert who confirmed the collapse wasn't due to a landslip but more likely due to heavy rain that happened around the time. Mr G complained about the decline but Haven didn't uphold the complaint, so he brought it to this service.

Our investigator recommended the complaint be upheld. He said Haven should consider the claim under the storm cover of the policy.

Mr G accepted our investigator's outcome however Haven didn't. It said it didn't think the storm cover would apply to this claim as the damage to the wall appeared to be due to a gradually operating cause, which was also excluded from the cover. It asked for the complaint to be reviewed by an ombudsman.

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.

Haven has excluded Mr G's claim under the subsidence, heave and landslip cover in the policy. This excludes damage to walls where there is no damage to the main property.

I note in assessing the claim Haven hasn't attended the wall to inspect it, or examined any photos. It has made an assessment just on the information provided by Mr G over the phone.

Since the decline Mr G has provided a report from his own expert. This states:

'You asked for confirmation of whether the wall collapsing was caused by a landslide, which I can confirm was not the case'

As this is based on an inspection of the wall by an expert I find it persuasive. And as Haven have neither instructed an expert or inspected the wall I think it's enough to show that it acted unfairly by considering the claim under the cover for a landslip.

The report goes onto state:

'In terms of what caused the wall to collapse - it's difficult to say, however I did note that the ground in your garden has a very high clay composite which retains a lot of water. Long periods of rain or a lot of rain in a short time will have caused the ground to become far heavier than normal and not given it time to drain away, which in my opinion is the likely reason the wall failed'

Mr G's policy covers his property for damage caused by a storm. And Mr G has explained there was an amber weather warning in place at the time the wall collapsed due to heavy rainfall. As his report comments that heavy rain is likely to have been the cause of the damage, I agree with our investigator that Haven should consider the claim under the storm cover in the policy.

I want to add that I can see from the claim notes provided that it mentions Haven considered the claim under the storm cover when it was first notified. However this wasn't discussed with Mr G at the time, nor is it clear why the claim wasn't taken forward under that cover. Especially as in the claim notes, a weather report is provided that shows heavy rainfall on the day of the damage.

But regardless, since these comments Mr G has provided a report that concludes the likely cause of the damage was bad weather. So I'd expect Haven to now properly investigate the claim and consider it under the storm cover.

In response to our investigator's outcome, Haven has said that it considers the damage to have happened gradually, and this is excluded across all areas of cover in the policy. However the report provided by Mr G's expert suggests that damage could have been caused by a large amount of rain in a short period. So I don't agree there's enough evidence to conclude that the damage has happened gradually.

Based on this I agree with our investigator that Haven should consider Mr G's claim under the storm cover in the policy.

My final decision

For the reasons I've given, I uphold Mr G's complaint and direct Haven Insurance Company Limited to consider his claim under the storm cover in the policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 24 August 2023.

Sophie Goodyear
Ombudsman