

The complaint

Mr H complains that Highway Insurance Company Limited (Highway) declined his claim for storm damage to his garage roof under his home insurance policy.

What happened

Following a named storm, Mr H contacted Highway to report damage to his garden wall and garage roof. Highway agreed that there were storm conditions and sent a surveyor to assess the damage. It accepted the claim for the garden wall but not the garage roof. It said that although there were storm conditions, the winds were not the dominant and effective cause of the damage. It said that the roof was weakened by wear and tear prior to the storm.

Mr H complained to Highway, but it didn't change its decision. It said there were existing cracks in the roof panels and breakages around the roof nails which appear to have occurred over time. It said that wear and tear to the roof affected its ability to withstand the storm and that the storm wasn't the main cause of the damage. Mr H wasn't happy and brought his complaint to this service.

Our investigator didn't think the complaint should be upheld. She thought that Highway had applied the terms of the policy fairly and that the storm wasn't the primary cause of the damage.

Mr H didn't agree. He pointed out that he had spent many years in the construction industry and so had relevant expertise. He didn't think the surveyor carried out a fair assessment of the roof and although he accepted it was weathered, he said it was intact and waterproof with no loose fittings or evidence of decay. He asked for an ombudsman's decision.

My provisional decision

On 30 August 2023 I issued a provisional decision. I said :

"Not all damage a home sustains will be covered by home insurance. Only the damage caused by one of the one-off perils (or events) listed in the policy will be covered. If the damage can be shown to be caused by such an event, then the insurer must pay the claim unless it is able to rely on one of the policy exclusions to decline it."

Mr H's home insurance policy includes storm damage. A storm is defined at page 9 of the policy booklet as winds in excess of 47mph. On page 16 of the policy booklet there is a list of things that are not covered under the policy including "Any loss, damage or liability arising from wear and tear that you know is happening gradually over time".

When considering complaints about storm damage claims, we ask three questions:

- Is there evidence of a storm event on or around the time the damage was caused?*
- Is the damage claimed for typical of damage that would be caused by a storm?*
- Was the storm the main cause of the damage?*

The answer to all three questions needs to be 'yes' for this service to be able to recommend

that a storm complaint is upheld.

Is there evidence of a storm event on or around the time the damage was caused?

Highway said that there were wind speeds of between 59mph and 74mph around the time of the damage and that there were storm conditions under the terms of its policy. I've checked weather records at the time and am satisfied that there is evidence of a storm.

Is the damage claimed for typical of damage that would be caused by a storm?

Strong winds are known to cause structural damage. In this case there were particularly strong gusts of wind, so I'm satisfied the damage to the garage roof was consistent with damage typically caused by a storm.

Was the storm the main cause of the damage?

Highway say that wear and tear was the main cause of the damage. My role is to decide whether Highway fairly declined the claim based on the evidence.

The surveyor's report gives no detail of the damage to the roof – or its cause. It's more of an estimate for repairs with photos attached. I've therefore looked at the surveyor's notes from his inspection of the roof. He says there were many signs of roof deterioration – but gives no detail of what the signs were. He refers to historical street view pictures that he says shows the roof already lifting up in 2018. There are two street view pictures attached to his report but these don't show the garage or its roof. Highway has also noted during one of its reviews that it's not possible to see the corrugated sheets from the images. I therefore haven't seen any evidence of the prior damage that the surveyor refers to.

I note the surveyor's inspection didn't take place until some three months after the damage occurred. In the meantime, temporary emergency repairs had been carried out so the surveyor's photos don't show the full extent of the damage caused. Mr H says that about 2 square metres of the roof sheeting blew off in the storm and I can see in the photos that this had been put back and was being held in place with bricks. The surveyor doesn't mention the temporary repairs at all in his notes – or what the original damage was – he simply concludes that the damage was caused gradually rather than by the storm. Without any explanation for this conclusion, I don't find the surveyor's report or notes very persuasive.

I'm aware that Mr H's claim was reviewed a number of times by Highway. It says that the roof was corrugated with a bitumen coating which was peeling away exposing the roof to the weather. It refers to cracks in the roof sheets some of which were weathered indicating that they had been this way for some time. Highway also says a number of fixing caps had perished allowing rainwater to penetrate.

Mr H says that before the storm his roof was intact and the garage was dry indicating that there was no damage before the storm. I've seen Mr H's photo of the inside of his garage and I can't see any evidence of damp or mould which would suggest the roof wasn't waterproof. I therefore don't think there is any evidence of deterioration resulting in rainwater ingress, as suggested by Highway.

I've viewed the surveyor's photos carefully to see what they show. Photos 9 and 12 appear to show some of the bitumen coating coming away, and photos 7, 8 and 11 show evidence of a small amount of cracking. Mr H refers to this as having been caused in the storm when the edge sheets lifted slightly and broke through the roofing screws. It's not clear to me whether these cracks are old or new, but if they are old cracks as Highway suggest none of them appears to be in the area where the roof came off. Other photos show the area of

storm damage, but as these were taken from a distance, I can't see whether there was any pre-existing damage to this section.

When an insurer relies on an exclusion in the policy to decline a claim, as Highway has done here, the onus is on it to show the exclusion applies. I don't think Highway has done this. Whilst I accept the roof has signs of weathering in places, I'm not satisfied that Highway has shown that the roof lifting and blowing off was due to wear and tear. I've taken into account the severity of the storm. There were very strong gusts of wind up to 74mph which I think would have been enough to cause considerable structural damage. On balance I think that the storm was more likely to have been the main cause. I don't think Highway acted fairly when it declined the claim and I therefore intend to uphold this complaint.

I intend to require Highway to consider the claim under the remaining terms of the policy. Mr H had the garage roof replaced rather than repaired and is asking Highway for a contribution equivalent to the cost of repair. If Highway accepts the claim, it must also pay interest at 8% on the settlement sum from the date that Mr H made payment to the date the monies are refunded to him. I think this is fair as Mr H has been without the money during this time. If he has not already done so, Mr H should provide proof of payment to Highway.

As I think Highway unfairly declined the claim, I've gone on to consider compensation. This was a frustrating situation for Mr H and I can see that he spent considerable time corresponding with Highway. Declining the claim has led to delay in the matter concluding and think it fair for Highway to pay £100 compensation for distress and inconvenience."

Responses to my provisional decision

Highway accepted my provisional decision and had nothing further to add. Mr H also accepted my provisional decision and said that he has now agreed a settlement of the claim with Highway.

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.

Given that neither party has provided any new information, I see no reason to change my provisional decision. My final decision and reasoning remain the same as my provisional decision.

My final decision

My final decision is that I uphold this complaint and require Highway Insurance Company Limited to:

- consider the claim under the remaining terms and conditions of the policy;
- pay simple interest on any settlement sum at 8% a year from the date Mr H paid for the roof repairs to the date any monies are refunded to him; and
- pay £100 compensation for distress and inconvenience.

If Highway considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr H how much it's taken off. It should also give Mr H a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 9 October 2023.

Elizabeth Middleton
Ombudsman