

The complaint

Ms M is unhappy Wakam declined a claim she made under her home insurance policy.

What happened

In January 2023, following bad weather, water came through the chimney area of Ms M's home causing damage to the plasterwork. Ms M made a claim to Wakam, her home insurance provider.

Wakam appointed a contractor to inspect the damage. They said the ingress of water had been caused by a shrub growing from the chimney rather than due to storm damage. Wakam declined the claim on the basis of a wear and tear exclusion in Ms M's policy.

Ms M was unhappy with Wakam's position, so she approached this service.

One of our investigators looked into things but she didn't uphold the complaint. She said that Wakam hadn't acted unfairly by saying there were no storm conditions around the date of loss. The investigator also said that Ms M's own contractor's report said the damage was caused by gradual damage and wear and tear which is excluded.

Ms M didn't agree and the case was passed to me to decide.

I reached a partly different outcome to our investigator, so I issued a provisional decision to give both parties an opportunity to comment on my initial findings before I reached my final decision.

What I provisionally decided – and why

In my provisional decision, I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As I've reached a partly different outcome to our investigator, I'm issuing a provisional decision to give both parties an opportunity to comment on my initial findings before I reach my final decision.

When we consider complaints about storm damage claims, we take into account the following questions, and if any of the answers are no then it's likely a claim won't succeed:

- Were there storm conditions?
- Is the damage consistent with storm type damage?
- Was the storm the main or dominant cause of the damage?

Were there storm conditions?

Our investigator said that Wakam hadn't acted unfairly by saying there were no storm conditions prior to the loss. I don't think that was correct. From what I've seen, I don't think Wakam disputed there were storm conditions, but instead declined the claim based on a policy exclusion (which I'll consider separately below).

Ms M's policy doesn't define what Wakam considers to be storm conditions. I've seen the weather records for the period leading up to the date of water ingress. There were windspeeds of up to 52mph, and I'm satisfied this could be considered storm type winds – and it appears that Wakam also accepts this. There was also heavy rain around that time too, and it was an ingress of water which led Ms M to make her claim.

Is the damage consistent with storm type damage?

There was an ingress of water which caused damage, and this could be storm type damage, in the right conditions.

Was the storm the main or dominant cause of the damage?

Wakam says that the water ingress was caused by a shrub growing from the chimney, so they say this was the dominant cause, rather than the storm weather. Wakam has relied on the following exclusion to decline Ms M's claim:

“We will not pay for:

Any loss or damage caused by wear and tear or any other gradual operating cause”

Having considered Wakam's report, I don't find it overly persuasive as it is very limited in content, and aside from seeing the vegetation, they haven't demonstrated how this led to the water ingress which then caused the internal damage.

Ms M provided her own expert report from a roofer. This said:

“Following inspection of your roof we found ingress to be coming through the chimney / flashing details following the recent storm and heavy rain. We noted the vegetation in the vicinity although this doesn't seem to be culprit as it has been here for many years it would appear and there is no evidence of legacy or historic water damage before this point.

From your description it is very likely due that period of driving rain that this was heavy enough to force its way under the flashing (possibly via the blown mortar that may have happened following recent very cold weather and frosts). We inspected the neighbours pointing and deduced that this is unlikely to be responsible as they have not reported any water damage and there is no way of knowing the exact point of entry until the area is broken out and remade."

So, this report doesn't conclude that the vegetation was the cause of the water ingress. Instead, it says its likely water has either been forced under the flashing, or via blown mortar.

However, I wouldn't expect well maintained mortar to either be damaged or allow water to penetrate in the weather conditions present unless it was already suffering a pre-existing issue. And blown mortar is something that would occur gradually over time. Therefore, I don't think Wakam is acting unfairly by declining the claim for storm damage if water has entered via blown mortar.

However, the report also says it could have been forced under the flashing. Ms M has accidental damage cover under her policy. This is defined as:

"Unexpected and unintended damage or breakage caused by a single and one-off event resulting from a sudden and external means."

I understand there was a sudden ingress of water following the period of bad weather and this caused the damage being claimed for internally. And whilst the accidental damage section of the policy also has a wear and tear and gradual damage exclusion (which I'm satisfied would apply to the external mortar damage), nothing has been provided which shows that the internal damage has been caused gradually.

I also understand that no internal damage was caused prior to the bad weather in January 2023, and no water has penetrated since then either. So, I'm persuaded instead that the internal damage was caused by a sudden one-off incident of water ingress, whether via the mortar or under the flashing, following the weather at the time.

Therefore, whilst I don't think Wakam is acting unfairly by declining the storm damage claim for external and internal damage, unless anything changes as a result of the responses to my provisional decision, I'll be directing Wakam to deal with the internal damage under the accidental damage section of Ms M's policy and in line with the remaining policy terms.

Furthermore, whilst I accept that the external damage isn't covered, I think Wakam should have considered the internal damage under accidental damage based on all the information Ms M provided, including her own contractors report. So, in addition to dealing with the accidental damage claim, I'm also minded to direct Wakam to compensate Ms M £100."

So, I was minded to uphold the complaint in part and to direct Wakam to:

- Deal with the internal damage under the accidental damage section of Ms M's policy and in line with the remaining policy terms
- Pay Ms M £100 compensation

The responses to my provisional decision

Ms M responded and agreed with the provisional decision. She reiterated the damage was caused by a one-off incident of water ingress. She said there has been considerable rain since then, and no further ingress or damage has occurred.

Ms M also said that the vegetation on the chimney is from the neighbour's side, it has been there for years, and no water has entered either her or her neighbour's property before this one-off incident. She also said the contractor who visited at the time from Wakam said he'd be recommending the internal damage be covered. And she also said the situation had caused her distress and she appreciated the compensation outlined in the provisional decision for this.

Wakam responded to the provisional decision, but they didn't agree. They said the accidental damage policy cover had its own exclusion for dampness, so the damage wouldn't be covered under accidental damage.

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.

And I've thought carefully about the provisional decision I reached, and the responses to it. Having done so, my final decision remains the same as my provisional decision.

Ms M provided a response and outlined that she was in agreement with the provisional decision I reached and reiterated the previous points she had made. These were taken into account when reaching my provisional decision, so I won't revisit them in detail.

Wakam didn't agree the claim should be considered under accidental damage cover. They say that when the claim was reported the description was that the ceiling was damp. They referred to the following exclusion under the accidental damage part of the policy:

"There is no cover for:

e) damage caused by dryness, dampness, extremes of temperature and exposure to light"

However, I don't agree with Wakam that this exclusion would apply here. I'll explain why.

For the reasons outlined in my provisional decision, I'm satisfied the damage was caused by a one-off incident of water ingress. This is different to damage being caused by 'dampness', for example rising damp. As outlined by Ms M several times, no water has entered either before the one-off incident, or since. And the damage solely happened on that single occasion. This supports it was a one-off ingress which caused damage, rather than 'dampness' damage.

So, I don't think the damage has been caused by 'dampness', and instead I'm persuaded it has been caused by a one-off incident of water ingress. I don't think it's fair to say that it is 'dampness' by relying on how Ms M reported the claim either. She wasn't making a claim for 'dampness' damage, she was making a claim for a one-off incident of water ingress which had made her internal walls wet and damaged.

This is also supported by the images taken. The wall is visibly saturated, rather than suffering 'dampness'. The image of the moisture readings also supports that, as the reading is 999. And Ms M's contractor, who provided a more detailed report of the damage, also confirmed it was a one-off ingress of water which caused damage and there was no historic or legacy water damage (or dampness) before then.

I think all the above supports that a one-off ingress of water caused the damage, rather than damage caused by 'dampness'. So, I've still decided that Wakam need to deal with the internal damage under accidental damage and the remaining policy terms, and they will still need to compensate Ms M £100 too.

My final decision

It's my final decision that I uphold this complaint in part and direct Wakam to:

- Deal with the internal damage under the accidental damage section of Ms M's policy and in line with the remaining policy terms
- Pay Ms M £100 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 8 December 2023.

Callum Milne
Ombudsman