

The complaint

Mrs A and Mr A complain about Haven Insurance Company Limited (Haven) declining a claim under their home insurance policy for damage to their property in bad weather.

Haven use agents to administer the policy and to assess claims. Reference to Haven includes these agents.

What happened

In November 2022 Mrs A and Mr A's property suffered damage to four separate areas of roof following heavy rainfall. They contacted Haven to tell them about the damage and lodge a claim. Haven appointed a firm (D) to assess the claim. They asked Mrs A and Mr A to make temporary repairs to mitigate further damage, provide a 'cause of damage' report, photographs of the damage together with quotes for repairing the damage. Mrs A and Mr A did so in December 2022, providing a cause of damage report.

However, Haven said they wouldn't be accepting the claim as their weather records didn't indicate storm conditions on the date of the incident and they considered the damage set out in the cause of damage report to indicate wear and tear, maintenance issues and gradually operating cause – which weren't covered under the policy. Mrs A and Mr A obtained a second cause of damage report and quote the following month, stating the damage to the roofs was consistent with heavy rain.

Mrs A and Mr A said they were initially told by Haven in a call that they would progress the claim and appoint a loss adjuster to inspect the property. However, Mrs A and Mr A were then contacted by Haven and told a loss adjuster wouldn't be appointed (as they'd declined the claim) and confirmed their initial decision that the claim would not be accepted. Unhappy at what had happened and the decline of their claim, Mrs A and Mr A complained to Haven.

Haven didn't uphold the complaint. In their final response they said the circumstances of the claim were outside the terms, conditions, and exclusions of the policy. Haven said they reviewed the repair quotes provided by Mrs A and Mr A alongside weather records for the date of the incident. They acknowledged heavy rain had occurred, but not to the degree that fell within their definition of a storm. So, the claim was declined. Haven maintained their decline after receiving a third quote in January 2023. However, Haven acknowledged there had been some misinformation regarding the appointment of loss adjuster, for which they apologised.

Haven said they considered the damage was due to wear and tear or maintenance issues, which was an exclusion under the policy, referring to the policy wording. The claim was also declined because of the absence of storm conditions recorded on the date of the incident.

Mrs A and Mr A then complained to this Service, saying Haven had unfairly declined their claim. They'd provided two cause of damage reports confirming the damage was due to heavy rainfall and Haven hadn't sent out anyone to assess the damage, despite having the opportunity. And they hadn't provided any basis to challenge the conclusions of the cause of damage reports.

They'd been affected financially by having temporary repairs carried out and repairing two of the damaged roofs (two remained to be repaired, as they didn't have the funds to do so). Nor had they been able to repair the interior damage, for the same reason. Conditions at the property had, due to the dampness and mould, affected the health of their children. And the experience had been very distressing for them. They wanted Haven to acknowledge the distress they'd caused and to pay for the cost of repairing the damage.

Our investigator initially upheld the complaint, concluding Haven hadn't acted fairly. The policy didn't contain a definition of a storm, so the investigator applied a general definition of storm conditions. Doing so didn't exclude heavy rainfall alone, where there weren't high winds. Weather reports from the date of the incident indicated 'very heavy rain', which the investigator thought constituted a storm. While Haven had cited the wear and tear exclusion to also decline the claim, they hadn't provided any evidence to support this conclusion – given the onus on them, where an exclusion was applied, to show the exclusion applied. The investigator also noted Haven's acknowledgement of times when their service to Mrs A and Mr A fell short.

To put things right, the investigator thought Haven should accept there were storm conditions at the time of the incident and reassess the claim in line with the remaining policy terms, appointing a loss adjuster to inspect the property and report. Haven should also pay Mrs A and Mr A £200 in compensation for trouble and upset.

Haven disagreed with the investigator's initial view and provided further evidence and information, including observations and representations on the damage recorded in the quotes provided by Mrs A and Mr A. They said this indicated the damage wasn't the result of a one-off event. They also considered the photographs of the interior damage indicated ongoing issues, which rain alone wouldn't have caused. Rather, the rainfall highlighted existing issues with the roofs.

The investigator considered the further points made by Haven and issued a second view, in which he concluded it wasn't necessary for Haven to take any further action. While the investigator maintained his view there were storm conditions at the time of the incident, the storm conditions needed to be the dominant cause of the damage. He thought Haven had done enough to assess the claim and decline it. This was based on the reports and quotes from Mrs A and Mr A's builders that referenced damage including cement being pulled away from a boundary wall, exposing felt, battens and some rafters. And there being leaks from three roofs as well as detached drains with visible cracks. The investigator didn't think heavy rain likely to cause such damage – rather it suggested existing problems at the property, that became apparent from the heavy rainfall. So, the bad weather highlighted or exacerbated existing issues.

The investigator thought that while it would have been better for Haven to send a specialist contractor to inspect the property, which they offered to do (rather than a loss adjuster). Which the investigator thought reasonable. But in the absence of a further inspection, it was reasonable for Haven to assess the claim on the evidence and information available. Mrs A and Mr A disagreed with the investigator's revised conclusions and asked that an ombudsman review the complaint. In disagreeing, they raised a number of points.

First, they maintained the storm conditions were the dominant cause of the damage. Weather reports showed heavy rainfall at the time of the incident, causing leaks on multiple roofs, including one installed relatively recently. They thought there had there been pre-existing issues, they wouldn't have manifested on multiple roofs at the same time, particularly the recently installed roof. Second, they didn't agree the descriptions of the damage indicated pre-existing issues. The tears in the felt were very small, but enough to let

water leak in and damage the inner roof and room underneath. And the damage reports were based on visual inspections by two separate contractors (roofers) who both concluded the damage was due to the weather conditions. Haven hadn't carried out their own inspection, which Mrs A and Mr A had asked them to do.

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 Haven have acted fairly towards Mrs A and Mr A.

The main element of Mrs A and Mr A's complaint is that Haven unfairly declined their claim because the damage wasn't caused primarily by a storm (or heavy rain) but was due to wear and tear, maintenance and pre-existing issues. This wouldn't be covered under the policy. Mrs A and Mr A maintain (supported by comments from their contractors) the damage was the result of a storm (heavy rain).

Given the main issue is Haven's decline of the claim, I've looked at this issue following the approach we adopt, in cases of claims for storm damage. This involves three key questions 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, the policy terms and conditions do not include a definition of storm, either in terms of wind speeds, rainfall, snow, or other weather. I've looked at the data from the weather firm used by this Service for the date the damage of the incident. Data from the nearest weather station to Mrs A and Mr A's property describes rainfall as 'wet storm' with a maximum hourly rainfall of 10.2mm – the same figure for the same date from the data provided by Haven. And a maximum 24 hour rainfall of 36.4mm three days previously.

While weather conditions can vary in specific locations, given the proximity of the weather station (three miles) then – together with the data provided by Haven – I think it's reasonable to conclude (again, in the absence of any policy definition of storm) there were what could reasonably be considered to be storm conditions, in terms of rainfall. Even though the data doesn't indicate particularly high winds around the time of the incident.

Having reached that view, I've then considered the second question. In doing so, in the absence of any inspection by Haven or their contractor, I've looked at the description of the damage from the cause of damage reports from Mrs A and Mr A's builders.

The first, in December 2022, is contained as part of a quote for repair of the damage (£18,600) and includes the following statement:

"Cause of Damage Report

Upon inspection of the roof, we have found that the cement fillet has pulled away from the boundary wall, causing the felt to disintegrate with damage to the battens and some rafters. There is also escape of water from two flat roofs and the shed.

We believe that the damage had been caused by the extreme weather conditions of the storm earlier in the month."

The second report, provided in January 2023, also provides a quote (£34,600 excluding VAT, including interior repairs) and includes the following under a heading *Description of Damage*:

“Having inspected the property we found three instances of water entry through three separate roofs of the main building, as well as water entry from the roof of the shed. Our assessment for each is as follows:

- *Pitched roof – Part of the filler near the chimney breast has broken away and tear to felt underneath, creating a small hole for rain to enter. Minor damage to battens and rafters.*
- *Flat roof (first floor) – Displaced flashing between flat roof and wall has allowed water entry. Rest of roof in good condition.*
- *Flat roof (ground floor) – Possible membrane tears to roof allowing for leaks.*
- *Shed roof – Heavy water damage to roof board along cracked seam.”*

The report then states, under the heading *Cause of Damage*:

“The damage caused to the roofs of the house are consistent with heavy rain. The age and condition of these roofs alone would not be reason enough for a leak, particularly from the first floor roof which is otherwise in very good condition. Having assessed weather conditions on the day of the leaks, the level of rainfall would cause the observed damage to the roofs. The internal damage to three separate locations from the same time shows this has been caused by a single event.”

Both reports make similar findings about the damage. But I’m not persuaded – in the absence of data showing storm (high winds) on or around the date the damage is said to have occurred – the damage would be the result of a one-off period of heavy rain. I wouldn’t expect that to dislodge or break a cement fillet unless there was a pre-existing weakness or issue. Nor to displace a secure, well-attached flashing unless there was a similar weakness or issue. And the same for [possible] membrane tears and a cracked seam of the shed. Mrs A and Mr A say one of the roofs was replaced relatively recently, but accepting this point, I wouldn’t have expected a recently replaced roof to have experienced damage of the kind described in the quote/reports.

While the internal damage would be consistent with rainwater entering the property, I think – on the balance of probabilities - the most likely cause of the rainwater entering would be pre-existing issues with the property, particularly the roofs.

Taking these points together, I’m not persuaded the damage described in the quotes/reports is consistent with that to be expected in a storm, particularly one involving heavy rain.

Given these conclusions regarding the first and second questions, I’ve also considered the third question. As I’m not persuaded the damage is consistent with that to be expected from a storm (heavy rain) then I’m not persuaded the storm conditions were the main or dominant cause of the damage. I’m more persuaded by the view (which Haven take) the damage is consistent with that caused by wear and tear or maintenance issues.

Both these things are excluded from cover under the policy terms and conditions (as they are in most home insurance policies). In their final response, Haven refer to the following exclusion under *Section 1 Policy Exclusions*:

“Wear and tear, maintenance or anything happening gradually

We will not pay for any loss, damage, liability, cost or expense of any kind, directly or indirectly caused by or resulting from wear and tear...or anything that happens gradually."

While Haven only refer to this exclusion in their final response, the policy schedule contains the following endorsement about flat roofs:

"NSC01 Non-Standard Construction – Flat roof

This endorsement applies to the buildings and contents section of your policy.

The flat roof portion of the home must be inspected at least once every ten years by a registered roofing contractor, any remedial work must be completed within 60 days of any damage occurring and you must retain evidence of the inspection and repairs.

If the above requirements are not met then any loss or damage caused to that roof portion by storm, flood or ingress of water is excluded.

There is no cover provided under this policy for wear and tear, maintenance or anything that happens gradually."

I've not seen anything in the evidence and information available to determine whether the terms of this endorsement were met. And as Haven haven't sought to rely on the endorsement to support their decision to decline the claim, I haven't considered this aspect any further.

While I've reached these conclusions, I've also considered the additional points raised by Mrs A and Mr A in response to the investigator's revised view. They think if there had been pre-existing issues, they wouldn't have manifested on multiple roofs at the same time, particularly the recently installed roof. However, this doesn't preclude there being pre-existing issues on the roofs which the heavy rain highlighted. And as I've concluded above, the nature and description of the damage on the roofs – a further point they make - is consistent with pre-existing issues and not what I think likely to expect in heavy rain.

I accept the damage reports were based on visual inspections by two separate contractors (roofers) who both concluded the damage was due to the weather conditions. And that Haven hadn't carried out their own inspection.

While the quote/reports don't themselves include any photographs of the roof, I have seen photographs of the interior damage. Haven say they indicate rotting, inconsistent with a one-off event. Looking at the photographs, I would agree and wouldn't expect the degree of rotting observed from a one-off event. While I appreciate what Mrs A and Mr A have said about Haven not inspecting the damage, I don't think it unreasonable for Haven to have used the quotes/reports and photographs together with description of the damage to assess the claim and the likely cause of damage. And to conclude they indicated damage consistent with wear and tear and maintenance, rather than that expected in heavy rain.

Taking all these points together, I've not persuaded the damage was likely to have been the result of a one-off storm event. The damage is consistent with damage from wear and tear and maintenance. So, Haven acted fairly and reasonably in applying the exclusion and declining the claim.

My final decision

For the reasons set out above, it's my final decision not to uphold Mrs A and Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A and Mr A to accept or reject my decision before 29 February 2024.

Paul King
Ombudsman