

The complaint

Miss B and Miss C complain that The National Farmers' Union Mutual Insurance Society Limited (NFU) declined their claim under their home insurance policy.

What happened

In October 2022, Miss B and Miss C said following a storm a portion of a wall and the rear of an outbuilding became damaged. They reported this to NFU and made a claim. It sent a loss adjuster (LA) to assess the damage. But as there was evidence the building had moved, a surveyor was instructed by NFU to attend.

The surveyor assessed the damage and found the storm hadn't caused the damage. He said it was caused by gradual deterioration. Because of this, NFU declined Miss B and Miss C's claim.

Miss B and Miss C didn't accept the surveyor's assessment was correct. So, they instructed an independent surveyor. In his report, he concluded the outbuilding had been in a good state of repair and the cause of damage was due to the storm.

Miss B and Miss C submitted his report to NFU, for consideration. But it maintained its position, that the damage to the building was because of wear and tear and not due to the storm. Which NFU, communicated to Miss B and Miss C in its final response. As Miss B and Miss C had been given their referral rights, they referred a complaint to our service.

One of our investigators considered the complaint and didn't think it should be upheld. She said the policy terms and conditions didn't give a definition of a storm, and in those circumstances, our service would look at the weather conditions, to see if they could be deemed a storm. She said having reviewed the weather conditions, she wasn't satisfied a storm had taken place. And because of this, and following her review of both surveyor's reports, she concluded NFU hadn't been unfair to decline the claim.

NFU accepted the view, Miss B and Miss C ultimately did not. They questioned why our investigator had essentially defined what a storm was. They obtained a definition of a storm directly from NFU and said NFU had accepted there was a storm. They provided three witnesses who could account that the weather conditions on the night, amounted to a storm. Which they said was more accurate than a computerised analysis of the event, which often wasn't accurate. So, they asked for a decision from 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.

I considered the complaint, and I thought the complaint should not be upheld. I issued a provisional decision on 7 February 2024 and asked both parties to send me anything else by 6 March 2024. In my provisional decision I said:

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of the complaint.

Having done so, I intend not to uphold this complaint. I realise this will be a disappointment to Miss B and Miss C, but I hope my provisional findings go some way in explaining why I've reached this decision.

There are three questions we take into consideration when determining whether an event can be classed as a storm. These are:

- 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 a storm typically causes?*
- Were the storm conditions the main cause of damage?*

If any of the answers to the above questions are no, then an insurer can reasonably decline a claim.

NFU determined that the event amounted to a storm. It's fair to say that the policy terms and conditions didn't include a definition of a storm. It's also fair to say, that our service in absence of a storm definition, would revert to industry guidance to assist with a definition of what amounts to a storm.

In this complaint, Miss B and Miss C obtained clarification from NFU as to what it defined as a storm. It said that a storm amounts to:

'atmospheric violence or an extreme or at least unusual condition'. And that: 'A period of violent weather with 1. wind speeds with gusts of at least 48 knots (55mph) (equivalent to Storm Force 10 on the Beaufort Scale); or 2. torrential rainfall at a rate of at least 25mm (one inch) per hour; or 3. snow to a depth of at least 30cm (one foot) in 24 hours; or 4. hail of such intensity that it causes damage to hard surfaces or breaks glass.'

I have considered the local weather reports for the time of the event, which are usually the best evidence I can rely on to check whether there were prevailing storm conditions. These show that there were winds, but they were not as strong as the NFU definition. In addition, there was some rain but again not enough to meet the NFU definition.

However, NFU has advised Miss B and Miss C that it accepted there was storm conditions at the time of the event, which I think (having reviewed their letter to Miss B and Miss C) was accepted under the 'at least unusual condition.' Consequently, the answer to the first question is yes.

I've next considered the second question, whether the damage caused, is consistent with a storm. I've been provided with several photos of the damage, the NFU surveyor's report as well as Miss B and Miss C's independent surveyor's report. I have considered all this evidence.

The photos as well as the reports, are consistent in the damage that occurred. Namely, extensive structural damage to the outbuilding, and a collapsed wall. In severe storms, it is

possible for damage to occur to structures and walls. So, I would agree that the damage is consistent with storm damage.

The third question that I will next consider, is whether the storm conditions were the main cause of damage.

NFU instructed a surveyor who carried out an inspection of the property on 28 November 2022. Miss B was present during the inspection. The surveyor wrote a detailed report, that included a background of the event, description of the building as well as the surveyor's findings, following his inspection.

As previously mentioned, the report stated there had been extensive structural damage caused to the building and the wall. However, the proximate cause of the damage was due to the failure (erosion) of the mortar joints of the rear stonework, that had occurred gradually over time:

'Following the erosion of mortar joints, this will compromise the structural integrity of the stonework, and it appears following heavy rain and high winds, causing saturation to the ground, the wall has failed and collapsed. It should be noted that well maintained stonework wall should not suddenly collapse under storm conditions.... The whole building appears to show signs of movement in the roof and the brickwork to the front and rear elevations, with cracking of the walls and the rear wall plate being partially unsupported.... It is our Professional Opinion that the proximate cause is the erosion of the mortar joints of the rear stonework, which has occurred over a significant period of time, and due to a gradually operating cause.'

NFU declined the claim having relied upon its expert's opinion, as well as the policy terms and conditions which excluded cover for any damage that had been caused gradually.

Miss B and Miss C instructed their own surveyor to assess the damage. He too wrote a detailed report on 12 July 2023, having inspected the property on 30 June 2023.

The report included a background, building construction (which I note was consistent with NFU's surveyor), as well as the building condition. I note both reports were relatively consistent on the condition of the building, that is, there was extensive structural damage.

The report states:

'We have viewed the photographs of the initial collapse of the section of the external stonework skin to the south west rear elevation. This collapse was limited to approximately 15% of the external stonework skin, with the internal skin remaining in place. The stonework fell as one section, with the majority of the lime mortar remaining in place between the stones, rather than widescale failure of the lime mortar bonds. The remaining collapse occurred around two weeks after the initial collapse due to the effects of wind and weather on the weakened structure. The areas of the building not affected by the structural collapse are in sound condition with evidence of repairs/replacement of sections of the roof coverings and external stonework and brickwork having been carried out in recent years. The external doors have also been recently replaced. There is no evidence of widescale deterioration of the structure and lack of preventative maintenance having been carried out. The remaining areas of lime mortar pointing to the stonework are in sound condition and there is no evidence of widescale deterioration of the lime mortar pointing. Given the condition of the remaining structure, we would suggest that the initial collapse of the stonework to the south west rear elevation was caused by the torrential driving rain, high winds and thunder experienced on the day of the initial collapse, consistent with excessive storm damage and not through general deterioration of the structure overtime.'

Miss B and Miss C's expert report was submitted to NFU for further consideration. It obtained further comments from its expert who didn't agree with the consumer's expert. In summary, he highlighted:

- The stonework on the right-hand side south-west elevation of the building had badly eroded mortar.*
- The left-hand side of this section is better but there are areas of cracking on the external skin.*
- The brickwork to the left-hand side of the gable is in poor condition as it's badly eroded.*
- The brickwork mortar on the front elevation has significantly eroded on the left-hand side, above the windows. With open joints around the window, which he feared would collapse.*
- There is very little evidence of re-pointing and maintenance to the stonework or brick work.*
- The only areas that were in good condition was the right-hand side brick gable and the internal brick gables.*
- Conversely it said the left-hand side elevation and front elevation showed signs of deterioration with badly eroded mortar joints.*
- It stated it was unlikely that any re-pointing done, as this would've been less likely that the area would've collapsed.*
- The report also questioned whether only 15% of the wall (as indicated in the consumer's expert report) had collapsed, as the photos showed closer to 50% damage.*

Where there are opposing views, we consider which one we find more persuasive. Miss B and Miss C's expert concluded the damage was consistent with excessive storm damage. So, I've reviewed this further.

Their expert's reported: 'the stonework and lime mortar pointing to the external wall to the northwest side elevation/gable are generally in good condition. There is evidence of re-pointing to the verge in recent years, carried out when the roof was repaired/re-slatted.'

I've reviewed the photos and it seems the roof was intact. Miss B and Miss C's expert pointed out that the roof was recently re-slatted, and re-pointing had been carried out in that area. So, he concluded there had been some maintenance work conducted on the roof.

The NFU expert explained, had repointing been carried out, it would have been less likely that the wall would have collapsed. In other words, I think this means that where re-pointing was said to have taken place, there was minimal damage. Where it hadn't taken place, there was extensive damage. So, where there had been maintenance carried out (such as the roof) there was minimal damage. In other areas of the building there was extensive damage.

The NFU expert goes on to explain the cause of the damage was due to deterioration and badly eroded mortar joints. In addition to the eroded mortar joints, there was also cracking seen on the building.

I note, in Miss B and Miss C's expert report, there is no mention of the large amount of cracking can clearly be seen in the accompanying photographs. And no explanation given as to the cause of it. Therefore, I'm persuaded by the NFU's expert, had the mortar been sound, and had it been maintained, then there wouldn't have been any deterioration. Also, having reviewed the photos, there are several images that show missing mortar in the joints, which I'm satisfied was due to the erosion of the mortar, rather than storm conditions.

Both reports are consistent there had been movement to the structure. The independent surveyor said this could be attributed to the loss of structural support to the roof structure. The NFU expert states it was because of the eroded mortar. Looking at the photos, I'm persuaded the movement of the structure was due to the poor mortar, and I'll explain why.

There are significant areas that can be seen where mortar is missing in the joints. NFU said this would've occurred over a significant period and due to a gradually operating cause. Following which, this would've compromised the structural integrity of the stonework, causing it to collapse. In other words, I think as there had been deterioration, prior to the event, this weakened the structures (wall and building) and this was the root cause of the damage. The weather merely highlighted damage that had already occurred.

Taking all of this into consideration, the answer to the final question, of whether storm conditions were the main cause of damage, is no.

I'm satisfied that the NFU surveyor is an expert and as such, I don't think it was unfair or unreasonable for NFU to rely on its expert. And as the expert has concluded the cause of damage was a gradual operating cause, and this is excluded under the policy terms, I think that NFU was reasonable to decline the claim.

Overall, I think NFU dealt with Miss B and Miss C's claim fairly. I'm satisfied that the damage caused was because of gradual wear and tear. I understand this won't be the outcome that Miss B and Miss C would've liked but, in the circumstances, I can't reasonably ask NFU to do anything further at this stage, to resolve this complaint. If Miss B and Miss C have any further evidence that they would like me to consider refuting the provisional findings, I will of course do so.

Responses to my provisional decision

NFU had nothing further to add to the provisional decision.

Miss B and Miss C made several points which I summarise as follows:

- They believed the NFU surveyor wasn't objective.
- They asserted the cracks had appeared did so after the storm, due to the substantial shift of the building.
- They said they had consulted with a builder who informed them a building of this age would likely show signs of aging. And it wasn't unusual for the lime mortar to be worn down on the surface of a stone wall. But this didn't mean it was defective or weakened.
- They emphasized the general condition of the building was in a good state of repair. And pointed out the independent surveyor supported this and NFU's surveyor initially recommended a contribution towards the repairs.
- They reiterated the independent surveyor concluded the damage caused, was due to the storm.
- Finally, they questioned the experience of NFU's surveyor.

I have carefully considered the additional comments made by Miss B and Miss C and they haven't changed the outcome as indicated in the provisional decision, so I'll explain why.

NFU initially instructed a loss adjuster, and I can see at the time of this instruction, the LA (who attended the property) indicated to Miss B and Miss C the claim would be considered under the storm peril (I have read correspondence that shows this). He also indicated that due to the damage a surveyor would be instructed to inspect the building and wall for a defect diagnosis and scope of works, if required. I note, he didn't indicate the claim would be accepted.

A surveyor was instructed, and Miss B and Miss C are correct in his report he indicated that NFU might wish to contribute towards the repairs due to the storm conditions. However, he also mentions in the report, that significant structural damage had occurred and found the proximate cause of the damage, was due to erosion of the mortar joints which occurred overtime. This compromised the structural integrity of the stonework. In his opinion, a well-maintained wall wouldn't collapse under storm conditions and his recommendation was to repudiate the claim in full. So, I think the surveyor was referring the claim to the insurers to consider a contribution, not for the insurers to accept the claim.

I understand Miss B and Miss C consulted with a builder who advised them it wasn't unusual for mortar to be missing, given the age of the structures. But I haven't seen a report from the builder that confirms this. So, in the absence of this I reviewed both surveyors' reports. As well as the issues regarding the cracks which appeared on the structures.

The NFU expert explains the cause of the damage was due to deterioration and badly eroded mortar joints. In addition to the eroded mortar joints, there was also cracking seen on the building.

I note in Miss B and Miss C's expert report, there is no mention of the large amount of cracking which can clearly be seen in the accompanying photographs. And no explanation given as to the cause of it. Therefore, I'm persuaded by the NFU's expert, that had the mortar been sound, and had it been maintained, then there wouldn't have been any deterioration. Also, I've reviewed the photos, there are several images which show missing mortar in the joints, which I'm satisfied was due to the erosion of the mortar, rather than storm conditions.

In summary, having considered the complaints Miss B and Miss C has raised against NFU, I don't agree it acted unreasonably or unfairly in declining their claim and relying on the policy terms and conditions. I understand this will be a disappointment to Miss B and Miss C, but I won't be asking NFU to do anything further to resolve this complaint.

My final decision

For the reasons given, I don't uphold Miss B and Miss C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B and Miss C to accept or reject my decision before 28 March 2024.

Ayisha Savage
Ombudsman