

The complaint

R and Mr A complain that Ageas Insurance Limited has made an unfair claim decision when deciding that it is unable to cover the total costs of a wall that needs to be rebuilt following damage caused by an insured event.

What happened

R is a limited company with Mr A being one of the directors of this company. So for ease of reference throughout my decision, I'll refer to the actions of both collectively as "R" in my decision.

R notified Ageas of damage to a boundary wall outside its property in February 2023, it was believed a vehicle had crashed into the wall overnight resulting in damage with areas of the wall being knocked over. A claim was made on its commercial property insurance to Ageas with an ask that it covered the costs to repair the wall.

Ageas appointed its Loss Adjuster (LA) to assess the damage and determine whether it felt it was something covered under the policy. The LA provided a decision on the claim at the end of March and said it didn't agree the damage claimed for should be covered under the policy. It felt underlying issues with the wall and its integrity was the reason the collision resulted in the level of damage it did. And as the policy excludes damage caused by a gradual operating cause and wear and tear, it didn't think it needed to pay for the damage to be repaired.

R disagreed with the assessment and in June 2023, a complaint was made with the assistance of its insurance broker to Ageas. The claim was reviewed as part of this process and Ageas offered to partially settle the claim. It didn't agree the whole wall required rebuilding and felt a repair to the damaged area only would be needed. It said it believed a payment of £2000 was fair to cover this, less the policy excess of £350.

R doesn't believe this is fair. It has received quotes to have the wall repaired which total around £11,000 with VAT included. It disputes that the wall can be repaired for less, or that its general condition prior to the impact made a difference to the damage, with it believing the damage was only caused because of the vehicle impact. In support of this, it provided opinion of its own surveyor on the condition of the wall.

Our investigator looked at this complaint and didn't think Ageas needed to do anything else. They felt the information provided demonstrated the wall was affected by the vegetation growth around and over it. They were persuaded this could be causing gradual wear and tear to the wall and it couldn't be evidenced that damage to the whole wall was caused as a result of the impact. Based on this, they felt the settlement offered by Ageas for part repairs to the wall was fair and reasonable and they didn't think it needed to go further.

R disagreed with the outcome and felt its evidence and opinion had not been fairly considered. The investigator reviewed the complaint and information again but said their opinion remained. They accepted damage had been caused by an impact to the wall, but this was not the sole reason for the damage. The policy provided cover for the impact

damage and it was right Ageas covered this as it had. But they didn't think it needed to cover the costs of the total rebuild when it couldn't be demonstrated the collision impact was the cause of all damage to the wall.

R asked that the complaint be referred for decision as it maintained that Ageas has acted unfairly by not accepting the whole claim.

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've decided not to uphold this complaint. I appreciate R will be disappointed by this, but I'll explain why I think Ageas has acted fairly with the offer made to settle this claim.

The questions to be determined here are, does R have a valid claim under its insurance policy, so can it be shown an event has taken place which has caused damage and is an insured peril. And if there is a valid claim, is it fair for Ageas to rely on any policy exclusions when assessing the level of this damage and value of the claim. If not, it will be fair for R to expect the claim to be settled in full.

R's policy does provide cover for damage caused as the result of impact by vehicles and so if it can be shown damage was caused as the result of an impact, R can reasonably expect the damage to be covered.

R has said its gardener noticed the damage to the wall and because of a risk to public with debris and glass from a vehicle's lights, they cleared the area when the damage was noticed. No photographs of the damage were taken prior to the clean up operation as their first thought was to make the area safe before notifying R of the damage. But a statement was provided by the gardener to confirm this is the action taken, but their opinion was it was clear, the wall had been damaged by the collision of a vehicle.

Ageas had concerns about the cause of the damage when the claim was first made. Its LA said the following when considering this:

"The wall is generally in a poor condition, with a large amount of vegetation/trees noted in close proximity which are having an effect on the condition of the wall.

There are multiple areas of damage and cracking noted along the entirety of wall.

Although there is clear evidence of damage to the wall as reported – there is a clean break on the coping stones and the wall has moved off its footing, there is no evidence of an impact having occurred, with no damage noted to the brickwork itself other than a minor scrape which is not severe enough to attribute to impact damage."

Ageas accepted there was damage present, but the assessment of the wall and its condition, as well as the evidence around the main damage didn't support all damage to the wall could have been caused by the impact collision. It also felt the damage to the wall had not resulted in damage to the walls foundation level which didn't indicate it needed to be rebuilt.

R, in contrast provided an opinion from its own surveyor on the cause of the damage. This set out that they did not believe the damage to the wall could have been caused by the vegetation and any gradual damage would not be enough to result in the wall collapsing with the following closing statement:

“My conclusion is therefore that it is indisputable that the wall was damaged by being driven into by a vehicle.”

On review of the complaint, Ageas accepted damage was likely caused by vehicle impact, but it maintained that some of the damage to the wall was not consistent with the vehicle impact. So it has been accepted that an insured event has caused damage to R's property.

However, Ageas thinks it is fair to rely on the policy exclusions when only providing a partial settlement for the wall, as it does not believe all damage is the result of the impact. It felt this was the result of gradual operating causes and wear and tear, impacted by the vegetation growth causing cracking throughout.

R's surveyor has not spoken about the general condition of the wall and whether the vegetation could be causing ongoing gradual damage. But this has been dealt with at length by the LA and I am satisfied with the evidence provided that its assessment of the wall being in generally poor condition is fair. I think the general condition of the wall supports the position taken by Ageas that not all of the damage to it, is the result of the vehicle impact. Instead, gradual damage has occurred with the overgrowth of vegetation around the wall.

R's policy like most, excludes damage caused as the result of a gradual operating cause and wear and tear. I don't think Ageas has unfairly applied this when thinking about the overall condition and damage to the wall. I am not persuaded that all damage can be attributed to the collision impact and the assessment of the damage does not indicate this cannot be fixed without the replacement of the whole wall.

The LA assessment said the footings do not appear to have been damaged as a result of the impact. R provided two quotes for the repairs to the wall, a third contractor said the job was too big for it to quote for. Only one of these quotes indicates the foundation of the wall needs to be replaced, with the other providing no indication this is needed. And the quotes provided indicate the price has been provided to replace the whole wall – with the specification appearing different to what is currently in situ. Based on this, I am satisfied the foundation has not been shown to need to be replaced.

As I've said, I am not persuaded the damage to the wall is all the result of the insured event and some damage is fairly excluded. So Ageas has not acted unfairly when making a cash offer for the impact damage to be repaired. And I don't think it has acted unreasonably when basing this on what it has been told the likely cost of the repair to the damaged area would be. It's provided a settlement in line with what its LA has said it would cost it to repair this damage and as R's quotes go beyond this, it isn't fair to expect these to be used as the indication of the cost.

Overall, it is accepted that R has a valid claim on its policy with the collision impact damage being provided. I am not persuaded that all of the damage claimed for is the result of this impact and Ageas has fairly relied on its policy exclusions when setting out what it will cover. So I think its offer to cover the cost of this damage is fair and reasonable and I see no reason to ask Ageas to go further.

My final decision

For the reasons I've explained above. I don't uphold R and Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask R and Mr A to accept or reject my decision before 28 November 2024.

Thomas Brissenden
Ombudsman