

## **The complaint**

Mr and Mrs W complain that Zurich Insurance Company Ltd (“Zurich”) declined their claim for a storm damaged garden wall, under their home buildings insurance policy.

I’ll refer to Mrs W for ease in my decision.

## **What happened**

On 9 December 2023 a wall that formed the boundary at the rear of Mrs W’s garden, was blown over during the named storm Elin. She contacted Zurich to make a claim. She was asked to provide photos and a quote to rectify the damage. She was also asked to include the contractor’s view of the cause. She provided this information in mid-January 2024 due to contractor availability. Mrs W says she was then asked for more information by Zurich.

Mrs W says she struggled to obtain the information Zurich wanted. So, it sent a surveyor on 14 March 2024. She then received a letter declining her claim. The reason given was that the wall was suffering from mortar deterioration due to wear and tear. Mrs W disputed this but says Zurich stopped communicating with her.

In its final complaint response Zurich says its surveyor determined that the damage wasn’t due to an insured cause. But was the result of mortar deterioration, previous repair work, and efforts to extend the wall’s height. It says Mrs W hadn’t provided a cause of damage report that supported her claim. It offered £100 for having no record of her challenge to its decision, and for delays in dealing with her complaint. Zurich offered a further £150 compensation in a subsequent response for communication issues she had with its agent.

Mrs W didn’t think she’d been treated fairly and referred the matter to our service. Our investigator didn’t uphold her complaint. He says the surveyor’s notes and photos support his view that the wall was in a deteriorated state prior to the storm. He thought the compensation it had offered was fair but didn’t ask Zurich to do anything more.

Mrs W didn’t accept our investigator’s findings and asked for an ombudsman to consider the matter.

It has been passed to me to decide.

## **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.

Having done so, I’m not upholding Mrs W’s complaint. I’m sorry to disappoint her but ‘ll explain why I think my decision is fair.

There are three questions we take into consideration when determining whether the damage claimed is the result of 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 answer to the above questions is no then an insurer can generally, reasonably decline the claim.

I've looked at the weather records on the day Mrs W says her loss occurred. The data was taken from the closest weather station to her home, which is around 7 miles away. It shows the maximum wind gust that was experienced was 51mph.

Mr W's policy terms don't include a definition for 'storm'. But winds of this speed can reasonably be accepted to fall within this definition. So, the answer to question one is yes. Structural damage to a garden wall is consistent with damage caused by a storm. So, the answer to question two is also yes.

I've thought about whether the storm was the underlying cause of the damage. I've listened to the surveyor's audio report. I've also reviewed the written report and photos to consider this further. In the audio report the surveyor comments that the wall is two meters high and around ten meters long. He refers to the wall as, "*in a pretty bad state*" with "*plenty of blown and cracked bricks*". The surveyor says this damage was present prior to the wall falling over. He also comments on there being a lot of mortar deterioration. He says the wall has been repointed at some point. This involved the old mortar being ground out to 10mm depth and then repointed. The surveyor says this was for aesthetic purposes and didn't improve the structural state of the wall.

In his audio report the surveyor says the deteriorated mortar has weakened the structure of the wall. He says a section has been rebuilt at some point and comments on fresh brickwork. He says this indicates previous issues with the wall. The surveyor also comments on timbers bolted to the wall in one section. He says these extend over the height of the wall, which has put added pressure on it. The surveyor says there are a few underlying issues with the wall, which doesn't support the cause of the collapse being due to the storm.

The photos provided by Mrs W prior to the damage, shows the wall from a viewpoint inside her garden. Directly behind the seating area there are quite a few missing sections of mortar in the wall. Some of the brick faces are blown as described by the surveyor. This section of wall has two sections of timber fixed to it. These support a run of fencing on top of the wall, which has increased its height.

I acknowledge what Mrs W says about the timbers being lightweight and that they don't extend across the whole of the wall. But when attached to a wall in this way this can act like a sail and applies force through the wall. This is the point the surveyor made in his audio report about this adding pressure.

Having considered this evidence, I think Zurich's explanation for the underlying cause of the damage is persuasive. The deterioration in the mortar and bricks, plus the cosmetic re-pointing, all indicate that the wall has deteriorated overtime. I've no doubt the strong winds on 9 December 2023 resulted in the collapse of the wall. But a well-built wall in good condition should withstand winds of this magnitude. So, the underlying cause isn't the storm. This has merely highlighted the poor existing condition of the wall.

The general exclusions section of Mrs W's policy wording states that cover isn't provided in the event of loss or damage due to wear and tear. So, I can't agree that Zurich treated Mrs W unfairly.

I've read the quote for repairs Mrs W obtained. There's no commentary on the reason the wall collapsed. It only refers to the fallen wall as a danger and that it requires urgent repair. This doesn't show that Zurich's decline decision was unfair.

I've thought about the service Zurich provided to Mrs W during her claim. I think it's reasonable that it asked for a contractor to provide a quote. When she had difficulty getting further information it arranged for a surveyor to visit. This is what I'd expect it to do. However, Mrs W has described poor communication once she'd requested a copy of the surveyor's report. As well as information about making a complaint in March 2024. She had to chase Zurich and its agent dealing with her claim several times over the next month, without receiving a response. This isn't good service, and I think it's fair that it acknowledged this and paid compensation for the communication issues. But I think £150 is fair so I won't ask it to pay more.

Complaint handling itself isn't a regulated activity, so I can't consider that here. But I acknowledge the business paid £100 with respect to its complaint handling failings.

In summary I don't think Zurich treated Mrs W unfairly when it relied on its policy terms and conditions to decline her claim for the reasons it gave. So, I can't reasonably ask it to do anymore.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and Mr W to accept or reject my decision before 25 December 2024.

Mike Waldron  
**Ombudsman**