

The complaint

Mrs B has complained that her claim for storm damage was rejected by her insurer, Liverpool Victoria Insurance Company Limited (LV). Mrs B made a claim against her home buildings insurance policy.

What happened

Mrs B made a claim to LV when her garden brick wall collapsed following a named storm.

LV rejected her claim as it said storm conditions hadn't occurred near Mrs B's home at the time. And it said that the damage had been caused by wear and tear, so gradually over a period of time.

Our Investigator thought LV should pay Mrs B £100 compensation for some poor service while considering her claim. She agreed that LV had acted fairly in declining the claim for storm damage due to storm conditions not occurring. But the Investigator thought LV should reconsider the claim under the accidental damage (AD) cover Mrs B held with LV.

Mrs B accepted the Investigator's findings. LV agreed to pay £100 compensation for the distress and inconvenience caused by its poor service. But it didn't agree it should reconsider the claim under its 'AD' section of the policy.

So the case 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.

Insurers do not provide cover for every eventuality. They provide cover for specific insured perils such as storm, flood, or fire. In other words, for incidents that are unforeseen and sudden.

LV, like all other insurers' policies I've seen, do not provide cover for damage which has occurred gradually due to wear and tear.

We ask three questions when considering storm damage claims. 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?

Where we find the answer to all three questions is 'yes' we are more likely to say the claim should be met. But if the answer to any of the three questions is 'no' we usually say the claim has been reasonably rejected.

LV does not provide a definition for 'storm.' But it says it will consider wind gusts of 47mph or more as a storm, which we think is fair and reasonable.

Mrs B provided articles forecasting storm conditions at the time. However, from local weather data recorded at the time, this shows wind speeds did not reach 47mph or more.

This means I think the answer to the first question is 'no'.

I think the damage is consistent with damage a storm typically causes. The wall collapsed in strong wind conditions. So my answer to the second questions is 'yes'.

Our Investigator asked LV to provide a copy of the Surveyor's report identifying the cause of damage, following their inspection.

LV hasn't been able to provide one. Instead, it has provided comments on photos provided by Mrs B of the wall immediately after the damage occurred. Due to the unsafe situation the collapsed brick wall left for Mrs B and her neighbour, she arranged for the wall to be replaced by a fence, which she has paid for.

LV contacted the Surveyor to ask for a report, but they said they hadn't prepared one. Their comments according to LV's notes were:

"On the surveyors opinion wall should withstand the weather conditions recorded."

Mrs B's policy with LV provides cover for accidental damage (AD). LV defines AD as:

"damage caused suddenly by external means which is not expected and not deliberate."

LV also says it will not pay;

"Any claim arising from:

- anything which happens gradually including deterioration or wear and tear, settlement or shrinkage;"*

In order for LV to reasonably decline the claim due to wear and tear, it has to provide supporting evidence. LV says that from the photos they show the brickwork has; *"black marks along the bottom section of wall, where the mortar has come away and the wall has started to rotate. I've noted the bricks have come away clean, with no mortar attached to them, leading to a diagnosis of wear & tear."*

I'm unable to clearly see that from the photos provided. So I find that LV hasn't provided sufficient evidence to show that the cause of damage to the wall was due to wear and tear.

Mrs B woke the following morning to find her brick wall had collapsed. This seems to meet the definition of AD in line with LV's policy and so – in the absence of sufficient evidence to show the damage was caused by wear and tear - I think it should settle Mrs B's claim under the insured peril of AD.

It's clear from LV's file notes that Mrs B's representative repeatedly asked for a copy of the Surveyor's report, which was promised, but never provided. LV didn't address this service failing. And so I think it's reasonable for LV to pay compensation for the distress and inconvenience caused by its poor service. I think an award of £100 is fair in these circumstances, which both parties agree.

My final decision

My final decision is that I uphold this complaint. I require Liverpool Victoria Insurance Company Limited to do the following:

- Meet Mrs B's claim under the Accidental Damage cover of her policy, subject to any excess.
- Pay interest on the costs Mrs B paid to repair the damage at a rate of 8% simple interest a year from the date she paid to the date of reimbursement, subject to reasonable proof.
- Pay Mrs B £100 compensation for the distress and inconvenience caused.

Liverpool Victoria Insurance Company Limited must pay the compensation within 28 days of the date on which we tell it Mrs B accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

If Liverpool Victoria Insurance Company Limited considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mrs B how much it's taken off. It should also give Mrs B a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 8 January 2025.

Geraldine Newbold
Ombudsman