

## The complaint

Mr and Mrs W complain that esure Insurance Limited (“esure”) unfairly declined their claim for damage to windows caused by a storm, under their home buildings insurance policy.

## What happened

Mr and Mrs W’s roof and windows were damaged during a storm on 20 October 2023. They contacted esure to make a claim. It then sent a surveyor to inspect. The roof damage was declined due to its age and condition. Mr and Mrs W aren’t disputing this. However, the surveyor told them the damage to the windows was also declined. And that this was a separate complaint to the roof damage. They didn’t agree as the window damage was reported initially and they thought the high winds caused the damage.

In its final complaint response esure says there is no obvious storm damage to the windows. It says unless they are open, these types of windows are not susceptible to damage. esure says its surveyor noted mechanical failure due to age was the cause of the problem. It paid £100 compensation for delays in its complaint handling. But maintained its decision to decline the claim.

Mr and Mrs W didn’t think esure had treated them fairly and referred the matter to our service. Our investigator upheld their complaint. She says the surveyor didn’t record mechanical failure in his report. She says Mr and Mrs W told esure they had their windows open at the time of the storm, due to a strong smell in their attic. She was satisfied they had informed esure of the window damage when the claim was first reported.

Our investigator didn’t think esure had shown that the windows were damaged in the way it had claimed. To put this right, it should reconsider Mr and Mrs W’s claim in line with the remaining terms and conditions of the policy. She says the £100 compensation it had offered was fair for the distress and inconvenience caused by esure’s handling of the claim.

esure didn’t accept our investigator’s findings. It didn’t think Mr and Mrs W had shown that their windows were damaged by a storm. So, it asked for an ombudsman to consider the matter.

It has been passed to me to decide.

I issued a provisional decision in November 2024 explaining that I was intending to uphold Mr and Mrs W’s complaint. Here’s what I said:

### *provisional findings*

*Having done so I’m upholding Mr and Mrs W’s complaint. Let me explain.*

*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 answer to the above questions is no then an insurer can generally, reasonably decline the claim.

esure doesn't dispute that storm conditions were experienced at the time of Mr and Mrs W's loss. The information it provided shows wind speeds up to 49mph on the day the damage occurred. I've looked at the weather records from the closest weather station to Mr and Mrs W's home. This shows the maximum wind gust that was experienced was 50mph. Mr and Mrs W's policy terms include a definition for 'storm'. The terms say:

*"A violent gale force 10 on the Beaufort scale reaching wind speeds of 55 mph or above and/or 25mm or more of rainfall in any 24-hour period,"*

Based on the weather records I've looked at, storm conditions as defined by Mr and Mrs W's policy weren't experienced around the time of their loss. However, esure doesn't dispute that storm conditions were experienced. It considered Mr and Mrs W's claim under a storm cause. So, I won't consider this point further and move on to question two.

Damage to windows, when they have been left open during a storm, is something that is consistent with storm damage. So, the answer to question two is yes.

Question three asks whether storm conditions were the main cause of the damage. I've read the surveyor's report to understand more about this. The report says:

*"I repudiated this claim for storm damage on site on the ground of gradual process loss/wear and tear. The customer following the repudiation of the roof then showed me his [manufacturer] windows, Sky lights, He demonstrated how the fixtures are damaged. He claimed that he left the windows open to get rid of the smell of mice he had poisoned and when the windows were open storm winds caught them and caused damage to the fixings. This is a separate claim, however, [manufacturer] windows have an expected life of 25 years. That is the age of the windows."*

The surveyor's reason to decline the claim is that the windows are at the end of their life expectancy. However, in its final complaint response esure says there is no obvious storm damage, the windows aren't susceptible to damage unless left open, and that the issue is mechanical failure due to the age of the windows. But the surveyor didn't comment on or provide evidence to support a mechanical failure in his report.

I can see from the claim records that Mr and Mrs W told esure about the damaged windows when making their claim initially. They confirmed the windows had been left open due to the smell from a rodent infestation in their attic. So, the surveyor was wrong to say the window damage was a separate claim. It's clear this was included from the start.

I've read an email between esure and the surveyor. The language used by the surveyor is dismissive of the window claim. He infers Mr W was upset by the repudiation of his claim for the roof damage and proceeded to tell him 'a story' about the rodent issue. How this had resulted in a bad smell and was the reason the windows were left open. The surveyor says Mr W demonstrated how the windows were broken and that there was a lot of movement. But he didn't accept the storm was the underlying cause of this.

We asked esure to provide evidence that the windows were suffering from a mechanical failure due to age. It provided a further copy of its surveyor's report. The surveyor had added the following line to the box headed, 'report outcome':

*“..we believe this to be a wear and tear issue highlighted by high winds, and not damage caused solely as a result of a storm.”*

*I've thought about the surveyor's further comments. But this doesn't provide any detail to show what the mechanical failure was. It doesn't explain why this couldn't have been the result of the storm. I've seen the original photos that were taken of the windows, but these provide no useful information as to the cause of the damage. I'd expect esure's surveyor to have provided a detailed account of why the damage reported wasn't covered. This should've been included in his original report. But it wasn't. I don't find the addition to the original report persuasive in supporting esure's decline decision for the window damage.*

*Having considered all of this I don't think esure treated Mr and Mrs W fairly when it declined their claim, for damaged windows, for the reasons it gave. It should now reconsider this part of their claim under the remaining terms and conditions of their policy.*

*I've thought about the impact esure's decision to decline Mr and Mrs W's claim had on them. Mr W describes his frustration with the decline reasoning given by esure. He says this changed from the windows not being open, to the windows having a life expectancy of 25 years. Mr W says the life expectancy is actually 30 years and the surveyor should've been aware of the circumstances of the claim from the information he and his wife gave at the start.*

*I don't think esure has shown that it declined Mr and Mrs W's claim for storm damage to their windows fairly. This has caused frustration and inconvenience. I think it's fair that esure pays compensation to acknowledge this. I note our investigator's reference to the £100 compensation esure paid previously. But this was for a delay in its complaint handling, not for the impact the unfair decline decision had. To put this right, it should pay Mr and Mrs W £200 compensation.*

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Mr and Mrs W responded to say that they agree with my provisional findings.

esure responded to say it contacted Mr and Mrs W to ensure they hadn't repaired or replaced their windows. It says it agrees to paying £200 compensation and will instruct a surveyor to reinspect the damage. esure says it will take into account the strength of the storm winds in its reconsideration of the claim.

esure emailed us again to say it had contacted Mr W and that he doesn't agree to its surveyor visiting to inspect the damage. It says it can't reconsider this claim without the surveyor's report.

### **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.

In my provisional decision I said the surveyor who initially inspected the damage didn't provide any commentary about a mechanical failure of the windows. His remarks indicated he was dismissive of the window claim. And the addition made to his report did little to demonstrate that a mechanical failure had occurred.

As the surveyor's report lacked detail about the cause of the window damage, I didn't think it

had shown that its decision to decline the claim was fair. I said esure should reconsider this part of Mr and Mrs W's claim under its remaining terms and conditions.

esure's policy terms allow it to validate a claim, which can include sending a surveyor to inspect the damage. In these circumstances, as a suitable inspection of the damage hasn't occurred, it's reasonable for esure to arrange this. Mr and Mrs W can engage with esure to allow this to happen so their claim can be progressed.

Having considered both parties comments, I'm not persuaded that a change to my provisional decision is warranted.

So, my final decision is the same as my provisional decision and for the same reasons.

### **My final decision**

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint. esure Insurance Limited should:

- reconsider the window damage claim under its remaining policy terms and conditions; and
- pay Mr and Mrs W £200 for the frustration and inconvenience it caused them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 9 January 2025.

Mike Waldron  
**Ombudsman**