

The complaint

A company, which I'll refer to as D, complains that Allianz Insurance Plc (Allianz) has declined a claim made under its commercial buildings insurance policy.

For ease of reading, any reference to Allianz includes their agents and those acting with delegated authority on their behalf.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

D took out a commercial buildings insurance policy underwritten by Allianz.

In January 2024, D's boundary wall collapsed. D said it was due to a storm and made a claim to Allianz for the damage.

Allianz instructed a loss adjuster to investigate the claim. Following an inspection, Allianz concluded that the wall collapsed as a result of trees being pushed against it. They also noted signs of wear and tear, and historical cracking.

Allianz declined D's claim, because they didn't think the wall collapsed as a result of the storm. They recognised there were storm conditions, but they said they wouldn't expect a well-maintained boundary wall to collapse in these conditions. They were of the view that trees and bushes had gradually pushed against the wall, causing it to become weak. They therefore concluded there were pre-existing issues with the wall prior to the storm and that it was those issues which were the dominant cause of the damage.

D was unhappy with Allianz's position on declining the claim. D acknowledges that the wall is old with signs of wear and tear, and cracking. It also says that it's not built to modern day specifications. But it says this was accepted by Allianz when cover was arranged. D maintains the wall collapsed due to the storm which had strong wind gusts between 60 to 80mph.

Our Investigator looked into things but didn't think D's complaint should be upheld. She said she wasn't persuaded the wall collapsed as a result of the storm. The weather data she checked reported wind gusts of 47mph on the date the damage occurred. She didn't think the damage caused was typical of a storm of this nature. Based on the evidence provided, on balance, she thought it was more likely than not that the collapsed section of the wall was suffering from wear and tear.

D didn't agree with our Investigator, so the matter 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, while I understand this will be disappointing to D, I'm not upholding its complaint. I'll explain why.

Both parties have provided detailed submissions to support their position. I want to assure them I've read and carefully considered everything they've said, but I won't comment on everything.

Not all damage sustained is covered by a buildings insurance policy. In order for there to be a valid claim under a buildings insurance policy, the damage must have occurred as a result of an 'insured peril'. These 'perils', or events, are specified in every policy and include causes such as theft, fire, and storm damage. If the damage being claimed for can't be said to be as a result of one of these 'perils', then there can be no valid claim from the start.

D's policy covers a number of insured events. This includes:

"7. Storm, Tempest or Flood excluding

- a. Damage attributable solely to change in the water table level
- b. Damage by frost, subsidence, ground heave or landslip
- c. Damage in respect of fences, gates or moveable Property in the Open
- d. Damage to open-fronted or open-sided Buildings or to Property contained therein."

Therefore, D's policy does cover damage caused by a storm, with specific exclusions as outlined. However, for there to be cover, the storm needs to be the main or dominant cause of the damage, as that is the insured event under the policy.

When we consider complaints about storm damage claims, we take into account the following questions, and if any of the answers are no then it's likely a claim won't succeed:

- Were there storm conditions?
- Is the damage consistent with storm type damage?
- Was the storm the main or dominant cause of the damage?

It isn't in dispute there were storm conditions, so I don't need to decide that point. Based on the weather report I've seen, wind gusts of 47mph were reported on the date the damage occurred.

I need to consider whether the damage to the wall was typical of the sort caused by a storm of this nature. I agree with our Investigator that I don't think a well-maintained boundary wall would collapse with wind gusts of 47mph. I therefore don't think a collapsed boundary wall is consistent with this storm type. D disagrees and says the wind gust was stronger than 47mph, and suggested it was between 60 to 80mph. I haven't seen any evidence of it being at this level on or around the date in question. But even if I were to accept that the damage was consistent with storm type damage, I would need to be satisfied that the storm was the main or dominant cause of the damage. Based on what I've seen, on balance, I don't think the storm was the main or dominant cause of damage. I'll explain why.

I've considered all the information provided by both parties. Each party is of a completely different view. D accepts the wall was old and had signs of wear and tear including cracking. But it believes that the wall collapsed due to the storm. D said Allianz accepted cover for the wall in the condition it was in and therefore they should meet its claim. Allianz says the wall was showing signs of wear and tear and there were trees and bushes pushing against it causing it to become weak.

In cases like this, where each party disputes what's happened and interpret evidence differently, I'll reach my decision on the balance of probabilities. That is, what do I consider is more likely based on the evidence which is available. I think the loss adjuster's report and photographic images provided by both parties are the most helpful way, on balance, for me to decide what is most likely.

The images provided by both parties were taken after the damage occurred. They both show trees and bushes growing in close proximity to the wall. They also show a section of the wall having collapsed and part of the wall still in situ. In my view, the images of the wall still in situ support the conclusions reached by Allianz that it was suffering from wear and tear prior to the storm.

I say this because they show the wall to have signs of deterioration and cracking, rather than a smooth finish which you might expect from a wall which wasn't suffering from any wear. Given this section of the wall was directly attached to the wall which collapsed, and effectively part of one continuous structure, I think this demonstrates the likely condition the collapsed part of the wall was in prior to the bad weather. I don't think it was unreasonable of Allianz to conclude that there were signs of age-related wear and tear, as well as the nearby trees and bushes causing it to become weak.

In addition, the neighbouring fence didn't suffer from damage during the storm, that's clear from the images as it still remains in situ. This further supports there was a pre-existing issue with D's wall prior to the storm.

D accepts the wall was in poor condition and suffering from age related wear and tear prior to the storm. However, D has argued that Allianz should cover the claim because the policy was incepted with the wall in that condition. But insurance policies do not work in that way. As I've explained above, in order for the policy to respond, the damage must as a result of an insured peril. It therefore wouldn't be reasonable to say that Allianz should cover the claim for damage related to wear and tear, even if it existed when the policy came into force.

I accept the weather conditions can be considered a storm. But if the wall was in a well-maintained condition, in my view it is unlikely to have suffered the damage that has been caused here. As I say, I think this is supported by the fact that the adjoining neighbouring fence didn't suffer damage at the same time.

With this in mind, on balance, I consider that whilst there was a storm, D's wall was likely suffering from a natural breakdown of materials, wear and tear and deterioration and this was the dominant cause of the damage, which was highlighted by the storm weather at the time. So, I don't find that Allianz acted unfairly by declining the claim on this basis.

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 D to accept or reject my decision before 7 February 2025.

Ankita Patel
Ombudsman