

## **The complaint**

Mr K complains that Aviva Insurance Limited (“Aviva”) has unfairly handled a claim under his home insurance policy.

Any reference to Mr K or Aviva includes respective agents or representatives.

## **What happened**

The background of this complaint is well known between parties.

- In November 2022, Mr K has described several storm events that caused water ingress to a neighbour’s property. His own building was without any water ingress at this time.
- In January 2023 Mr K (alongside his upstairs neighbour) instructed a stonemason to repair a masonry parapet on his roof. This was due to start in February 2023.
- On 28 January 2023 unfortunately large stonework blocks fell from the parapet of Mr K’s property causing damage. Mr K made a claim under his home insurance policy soon after. Various steps were taken across the following months including works carried out by the council, and various reports produced by different parties.
- Mr K has put forward a report produced in August 2023 by Mr M (a chartered civil engineer) of Company M. He said this showed the cause of the damage was storm damage over time which had led to the collapse.
- Aviva considered this report and other evidence. Aviva’s loss adjuster produced a report on 10 October 2023 which concluded the cause of the collapse was poor original construction leading to degradation of the mortar bond until the collapse. Aviva declined the claim around this time, saying the above cause didn’t amount to an insured peril under the policy, and was due to gradual damage which was excluded.
- Mr K raised a complaint, disagreeing with Aviva’s conclusions, and stating that the building was well designed and well maintained. And Mr K also said he should be able to claim under the ‘hit by a flying object’ peril under the policy.
- In January 2024 Aviva issued its final response letter. It stood by its decline of the claim, reiterating that its policy excluded cover for gradually occurring damage, including wear and tear, gradual weathering, deterioration or depreciation. And that it believed the damage had not been caused by an insured peril under the policy. Aviva said it appreciated Mr K had asked it to consider the claim under the impact peril, but the proximate cause had been gradual occurring damage and not a one-off insurable event.
- The complaint came to this Service and one of our Investigators looked at what happened. She didn’t uphold the complaint, saying:

- The weather conditions around the time of loss didn't amount to a storm in line with the policy terms. This included some rain and less than 30mph winds which didn't amount to an unusual weather event.
- Mr K provided a report from an expert – Mr D – who said the collapsing stonework was due to a prolonged period of storm damage referencing several storms between January and November 2022. The Investigator said the policy simply covered damage caused by a storm event, not damage caused across a number of storm events as Mr D had indicated. So, this didn't change her mind.
- The Investigator didn't think there were any other insured perils that meant the damage would be covered under the policy – including consideration of accidental damage (which Mr K hadn't taken out on his policy). She also considered cover for a property being hit by an aircraft or flying object – and didn't think the falling stonework would amount to either an aircraft or flying object in line with the policy.
- Mr K disagreed, in summary he said:
  - From the storms in November 2022 and water ingress to his neighbour's property, he said it could be inferred that the one or two weather events around this time allowed water ingress within his property which led to the fall of the parapet across the front of the two terraced properties.
  - Mr K explained he had invested around £6,750 in maintenance across the preceding decade.
  - Aviva's loss adjuster had the intention of allowing Aviva to dismiss his claim, unfairly concluding the stonework falling was due to either wear and tear or caused by the maintenance. He also said Aviva's loss adjuster had attended the site many months after the damage occurred, in contrast to Mr D.
  - He recognised the policy wouldn't cover cumulative deterioration – but said this should depend on what amounts to gradual or cumulative decay.
  - Mr K referenced another complaint that had been considered by this Service and which he said had identical circumstances – therefore this should also be upheld.
- The Investigator looked again but didn't change her mind. She acknowledged there may have been strong winds and a rainstorm in November 2022, and took on board Mr K's belief the water ingress from this time led to the later collapse. But the Investigator said she couldn't ignore that it took a further ten weeks after the rainstorm for the stonework to collapse. And for her to conclude that some sort of gradual ingress/absorption took place across this period she would need expert evidence to support Mr K's comments.

The Investigator also said this theory was not aligned with the current expert opinion, but even if it was, the claim would need to be reconsidered against the appropriate insured peril as this may not be storm damage.

- Mr K provided a further disagreement, saying Mr D's opinion rejected that general wear and tear was to blame, and that it should be accepted the primary reason for the stone collapse was storm damage causing slight movements of the stonework

which adversely affected the bonding between elements. He also referenced an email from Mr D which said the storm had caused damage to Mr K's property in November 2022, but the instability the storm caused could not be reasonably identified at the time, and it had initiated a sequence which led to stone collapse in a manner that could not be foreseen.

This didn't change the Investigator's mind. So, the complaint has been passed to me for an Ombudsman's final decision.

### **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 this complaint. I'll explain why.

I have to consider in this case is whether Aviva has fairly declined Mr K's claim for storm damage to his property. As our investigator has outlined, when considering whether a claim for storm damage should be successful, we will consider the following questions:

- Was there a storm on or around the date the damage is said to have happened?
- Is the damage consistent with damage a storm typically causes?
- Were the storm conditions the main cause of the damage?

Only if the answer is "yes" to each of these questions would I consider that this claim should be paid. So, I've considered these in turn.

First, Aviva has said a storm didn't take place in or around the date the damage occurred on 28 January 2023. I've reviewed the conditions from around this time and I'm in agreement there was no storm around the date of the loss.

Mr K has pointed to storm conditions from November 2022 and across the earlier parts of 2022. And he's focused on evidence which he says supports this from Mr M's commentary.

Before I address that I want to set out how Mr K's insurance policy works. His buildings cover provides him with protection for loss or damage to his property in the event of certain insured perils taking place. This includes fire, theft, storm amongst others.

The key peril here is storm. This is defined in the policy as:

*"An unusual weather event with persistent high winds, usually associated with rain, thunder, lightning or snow."*

Below this definition it says:

*"The wind speed or gust should normally exceed 55mph (48 knots) to be a 'storm' but **we** take other factors into consideration such as where the property is sited. A **storm** can highlight defects rather than cause them and damage due to a lack of maintenance, wear and tear or which happens gradually is not covered."*

I think it's clear from these terms the policy is describing a one-off event that is covered. And specifically that wear and tear, and events that have happened gradually are not covered.

So, I've reviewed Mr M's report in light of these terms. I've included some parts of his report below that sat under the title "*Causation Summary*":

*"It is our opinion that the initial cause was storm damage and in particular the cumulative effects of damage from successive storms commencing with Storm Arwen and then occurring during 2022...The aggregate effect of these multiple storms on vulnerable projecting elements should not be discounted...The storms progressively loosened the bond between masonry units and allowed water to penetrate and further accelerate the deterioration.*

*...This storm damage then led on to an escape of water where rainwater found alternative routes to the downpipe through which to discharge. That gave rise to sudden and severe water ingress within [neighbour's property] and further loosened the masonry at the wall head with noticeable deformation then evident. Winter then ensued with freeze thaw cycles exerting forces and permitting more water to attack the masonry.*

*The displaced masonry then succumbed to gravity on 28th January 2023 and this is assessed and categorized as accidental damage disproportionate to the escape of water."*

I've thought about this carefully and even if I recognise the storms of November 2022 caused the damage Mr M has put forward, the description of loosening bonds, water penetration leading to deterioration does not seem in keeping with a one-off event. And to the counter, it sounds like gradual damage that has taken place over sometime between such a storm event happening in November 2022 and the collapse of late January 2023.

So, while I recognise Mr M's experience and expertise. Simply, his conclusion about the cause of the damage doesn't change the definition of storm under the insurance policy nor the requirement for this to be a one-off event.

I've also looked at Aviva's loss adjuster's report on 10 October 2023 which concluded:

*"...in my opinion the proximate cause of the outward movement was the poor original construction detail of the Cornice and Frieze. that created a situation where there was the potential for structural instability. The risk of structural instability would have increased over time due to degradation of any mortar bond between the inner and outer skins at the top of the front external wall until the collapse of the Blocking Course, Cornice and Frieze occurred in January 2023."*

Having read this conclusion, it seems the shared thoughts between the experts in this claim relate to the deterioration or degradation of the mortar bond over time. Whether this was due to poor design or construction falls away as the agreed cause was an event that happened gradually over time.

Mr K has suggested this would depend on your definition of gradual damage. Even if I agree on the damage beginning from November 2022, I'm satisfied that such a period of gradual damage up until 28 January 2023 would fairly amount to gradual damage in light of the number of weeks between events.

Mr K has put forward that he maintained his roof and put a lot of money into doing so. This may be the case, but it doesn't change the cause of damage identified in this case by the respective experts. Mr K has also put forward a point about the matter being unforeseen.

Had Mr K had accidental damage cover under his policy this may be a more relevant

consideration. But whether Mr K could've known the mortar would deteriorate over time doesn't impact whether or not the storm caused the damage to begin with – and from what I've seen the proximate cause of the collapse was the gradual deterioration of the mortar.

Mr K's policy also includes a peril that says it will protect him for loss of or damage to the buildings caused by being hit by an aircraft or other flying objects, or anything falling from them. In line with our Investigator's findings, I don't think falling debris or stonework in this instance could reasonably be considered to be a flying object or anything falling from a flying object.

### **My final decision**

For all of the above reasons, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 7 March 2025.

Jack Baldry  
**Ombudsman**