

## **The complaint**

Miss R complains that Aviva Insurance Limited (“Aviva”) unfairly declined her claim for damage caused to a boundary wall during a storm, under her home buildings insurance policy.

## **What happened**

On 30 September 2024 Miss R says a section of her garden wall collapsed during a storm. This formed the boundary between her garden and the neighbouring property. She contacted Aviva to make a claim. It initially assessed the damage based on photos. It decided to decline the claim. Miss R disputed its decision and asked for a physical inspection. This was arranged but the surveyor maintained the decline decision. Miss R says the surveyor displayed a lack of knowledge about the claim.

In its final complaint response dated 21 October 2024 Aviva says the damage has resulted from a combination of gradual causes. It says the weather reports don’t support this being the cause of the damage.

Miss R didn’t think Aviva had treated her fairly and referred the matter to our service. Our investigator didn’t uphold her complaint. She was persuaded by the expert surveyor’s report Miss R provided, and Aviva’s surveyors, that a storm wasn’t the underlying cause of the wall collapsing. Our investigator says Miss R’s policy doesn’t cover damage due to gradual causes. So, she didn’t think Aviva had treated her unfairly.

Miss R disagreed with our investigator’s findings and asked for an ombudsman to consider her complaint.

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 Miss R’s complaint. I’m sorry to disappoint her but I’ll explain why I think my decision is fair.

There are three questions we take into consideration when determining whether a storm caused the damage in question. 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.

Aviva doesn't dispute that storm conditions were experienced. It refers to weather records showing that maximum hourly rainfall of 6.4mm was recorded on the date of the loss. As well as wind speeds of 31mph.

I've looked at records from a weather station around three miles from Miss R's postcode. This shows the maximum hourly rainfall around the time of the loss was 8.4mm. Maximum windspeeds were 40mph.

Miss R's policy terms define a storm as:

*"An extreme weather event with persistent high winds with gusts normally exceeding 55mph (48 knots) and/or heavy rainfall at a rate of at least 25mm per hour and/or snow to a depth of at least 30cm in 24 hours and/or hail of such intensity that it causes damage to hard surfaces or breaks glass, according to our weather data. We will also take other factors into consideration such as where the property is sited."*

Based on this definition the criteria for a storm wasn't met for either wind speed or rainfall. I note Miss R has supplied data from a different weather service. This says 33.7mm of rain fell in the hour preceding the collapse of the wall. This isn't a weather service we refer to. But this is essentially a moot point. Aviva accepts storm conditions were experienced around the time of Miss R's loss. So, the answer to question one is yes.

A collapsed wall is typical of damage a storm can cause. This means the answer to question two is also yes.

I've thought carefully about whether a storm was the underlying cause of the collapsed wall. To understand more I've read the opinion provided by Aviva's 'technical team'. It says the cause of the damage is related to water draining through dry stone joints over time. It also refers to hydrostatic pressure. I understand this means the pressure increase caused by rainwater soaking into the ground. The wall acts to retain the higher ground on Miss R's side of the boundary. So as the ground becomes sodden with rainwater, the pressure on the wall increases.

The technical team refers to trellis panels adjacent to the wall. It says it's likely this exerted a force to the top section. When this type of wall starts to collapse it says more can follow as there's little holding the stone together. It also comments on an online photo from 2023. It says this shows the wall is leaning using a gate post for reference.

I've read the surveyor's report Miss R obtained. Her surveyor inspected the damaged wall at the end of November 2024. The surveyor comments that the two 'leaves' of the stone wall weren't tied together when it was built. He says the wall wasn't constructed to a robust standard. Although he also remarks that it's remained in situ since 1995 and therefore appeared to be performing adequately.

The surveyor highlights the trellis and says it was a combination of this being fastened to the wall, plants being allowed to grow up it unchecked, along with the weight of rainfall that caused the partial collapse of the wall. He says the wall has remained intact towards the rear of Miss R's property where the plants have been maintained.

I've looked at the photos including those available online offering a street view of the wall. This shows a trellis was in place dating back a number of years, which has significant plant growth. Miss R's surveyor has explained that this is one of the main causes of the collapse. It's difficult to tell if the wall is leaning, as Aviva suggests, from the street view photos taken in March 2023. But it's clear that the section of wall toward the rear of the property is still

standing. Miss R's surveyor highlights this in support of his conclusion that it's the trellis and plant growth that caused the collapse. This is along with inadequacies in how the wall was built.

Having considered all of this I'm persuaded that the trellis with its plant growth, the original construction of the wall, and the action of water draining through the stonework are all gradual causes that contributed to the collapse of Miss R's wall. The heavy rainfall was a catalyst for this. But storm conditions weren't the underlying cause of the damage. This means the answer to question three is 'no' and Aviva can fairly decline Miss R's claim.

In her referral to our service Miss R highlights concerns that she received poor treatment from Aviva. I asked her to show that she'd complained to the business about this point. Miss R has supplied a timeline of the claim that she sent to Aviva after it issued its final complaint response. I note what she says in this document about the poor treatment she received.

The Financial Conduct Authority (FCA) dispute resolution or DISP rules determine what complaints we're able to consider. The rules say that a complaint must first be raised with the business before our service can become involved. In this instance I can't see that Miss R raised her concerns about poor treatment within her original complaint. So, I can't consider this issue here.

I'm sorry Miss R's wall isn't covered under her policy. But having considered all the evidence and circumstances of her complaint, I don't think Aviva treated her unfairly when it relied on its policy terms to decline her claim. So, I can't reasonably ask it to do anymore.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 17 April 2025.

Mike Waldron  
**Ombudsman**