

The complaint

T complain about U K Insurance Limited's decision to decline a claim they made after a wall collapsed at their property.

What happened

The background to this case is well known to both parties, so I'll give only a brief summary here.

T, a business, has a guest house insurance policy underwritten by UKI. They made a claim after a retaining wall at their property collapsed into the street.

UKI sent out a surveyor to assess the damage. Their conclusion was that the wall's collapse had not been caused by an insured peril. On that basis, UKI declined the claim.

T obtained their own surveyor's report. This identified the same cause of the collapse. The two surveyors in essence agree that a build-up of water behind the wall increased the pressure and caused it to collapse.

T says the build-up of water was due to severe weather conditions. UKI don't accept that – they've said the wall was poorly designed or maintained and/or worn due to age.

T made a complaint to UKI about their decision to decline the claim. And when UKI maintained their position, T brought the complaint to us.

Our investigator looked into and thought UKI weren't entitled to decline the claim for the reasons they'd stated. She said they should reconsider the claim under the remaining terms and conditions of the policy.

UKI disagreed and asked for a final decision from an ombudsman, so the case has been referred to me.

I was minded to agree with UKI that they can fairly and reasonably decline the claim. So, I issued a provisional decision. That gave both parties a chance to provide further information or evidence and/or to comment on my thinking before I make my final decision in this case.

My provisional decision

In my provisional decision, I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The vast majority of insurance policies will set out – usually in a clearly defined list – the events that are to be covered under the policy. These are referred to as insured events or insured perils. It's reasonable to assume that anything not listed is not covered.

In this case, the only possible relevant insured perils under the policy are storm and accidental damage.

There was a named storm around a month before the wall collapsed. It affected the area T's property is in, which experienced gales and relatively high rainfall.

It would be extraordinarily difficult, given the month or so between the storm and the wall's collapse, to argue that the storm was the proximate cause of the wall collapsing.

The storm brought some heavy rainfall, but if that water was still causing added pressure behind the wall a month later, that suggests the fundamental problem isn't the storm but the dispersal (or not) of the water.

So, I'm satisfied there's no insured peril of storm in this case. I can't justifiably make an argument that the storm one month prior was the proximate cause of the wall collapsing.

The policy defines an accident as "a sudden, unexpected and identified cause".

The experts agree that the cause of the collapse in this case is the water behind the wall – and the wall not being able to withstand that pressure.

The water behind the wall is presumably mainly the rainfall in the period before the collapse. After the storm, a month prior to the collapse, there is no further exceptional weather event.

The rainfall in the relevant area over the period prior to the wall's collapse couldn't reasonably be described as "unexpected", particularly given the time of year.

And rainwater accumulating in a particular location over a period of time isn't "sudden" - certainly not given the relatively normal levels of rainfall in the whole of the month before the collapse. There was no sudden deluge just before the wall collapsed.

So, given the usual everyday meaning of the words used in UKI's definition of an "accident" – and taking into account the spirit of what is obviously intended – I don't think it would be possible to fairly conclude that there was an identifiable "accident" here which caused the wall's collapse.

In summary, as things stand – and unless I get persuasive information or evidence to suggest otherwise in response to this provisional decision – I'm minded to conclude that, in this case, there is no insured event that the policy is designed to cover.

There is no storm that could have been the proximate cause of the wall's collapse. And there's no identifiable accident that could have caused the damage.

I have my sympathy. I can see how they may feel there was little they could have done to foresee the collapse of the wall. And this is a very unlucky misfortune that has obviously significantly impacted their business. But I can't in all fairness conclude, on the basis of the information and evidence I currently have, that their policy covers this unfortunate event."

The responses to my provisional decision

UKI responded to my provisional decision to say they agreed with it. That's perhaps unsurprising given that I was minded to conclude that their claim decision was fair and reasonable.

T also responded and said they disagreed with my provisional decision. I'll summarise the points they've made, which are as follows.

One – the experts agreed that water behind the wall caused the wall to collapse. Therefore, the trigger for the collapse was weather-related and was not the result of gradual deterioration.

Two – the collapse of the wall was a “sudden” event and so meets the definition in the policy of an “accident”.

Three – the rainfall in the area in December 2024 and January 2025 was above the normal seasonal expectations. January rainfall was at 136% of the long-term monthly average, with notably wet spells between 4-12 January 2025.

Four – UKI's position was inconsistent because their car insurance division treated the incident as weather-related damage.

Five – the burden of proof falls on UKI to establish that an exclusion (for gradual deterioration) applies in this case. And they've produced no proof of deterioration or defect in the wall.

And therefore, the claim ought to be covered under the accidental damage insured peril.

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.

I'm grateful to T for setting out their position and arguments so clearly. And, as I said in my provisional decision, I have a great deal of sympathy for the position they find themselves in through no real fault of their own. However, their comments haven't changed my mind about the outcome of this case. I'll try to explain why.

One – the experts agree that the wall collapsed because water was collected behind it. The water was undoubtedly mainly (if not wholly) rainwater. So, yes, in that sense, the collapse of the wall was a weather-related event. But the cover in the policy is for storm damage or accidental damage, not for weather-related damage.

There's a reason for that. Insurers will happily cover storm damage and/or accidental damage. They are less inclined to cover damage caused by prolonged or persisting bad weather – because in that case, the damage is most likely not caused primarily by the weather.

Outdoor walls are built to withstand rain – even above average rain, over a prolonged period. If they collapse, that's very unlikely to be due simply (or primarily) to above average rainfall, even over a prolonged period.

Two – I agree the collapse of the wall itself was sudden. But the policy terms refer to sudden *causes*, not sudden events. The build up of the water (the cause of the collapse) clearly happened over a prolonged period, not suddenly. So, I can't agree that the sudden collapse of the wall means that the policy definition of an “accident” is met.

Three – I agree that the rainfall in the area over December 2024 and January 2025 was likely above average (though I note most of January 2025 falls *after* the collapse of the wall). But there was no storm (which is the insured peril) close enough in time to the wall's collapse to make me think the water behind the wall built up very suddenly and catastrophically as a result of a storm or deluge (or an "accident", as defined in the policy).

Four – I've not been provided with any evidence about how UKI have treated other related claims. Any such claims will have been dealt with under a very different policy, with very different terms. And in any case, that's irrelevant to what I'm considering here – which is whether the terms of this *particular* policy mean that this *particular* damage is covered.

Five – I can see how some confusion arose around UKI's reasons for declining the claim. They have in effect said: (a) there's no insured event; and (b) the damage wouldn't be covered anyway because an exclusion would apply.

Whether they did that to try to explain their position more fully, or to layer their reasoning for the decision to decline the case, I'm not sure. However, it wasn't helpful to provide the two explanations – in effect, strung together – without being clear about what they were actually saying.

In any case, UKI are entitled to decline this claim if **either**: (a) there is no insured event; or (b) there is an insured event, but an exclusion applies.

I am satisfied in this case that there is no insured event or peril – as I explained in my provisional decision.

It is an accepted principle of insurance that if a claim is made, it's for the policyholder to establish that damage or loss has resulted from an insured event. The burden of proof shifts (to the insurer) if there *is* an insured event but the insurer wishes to apply an exclusion.

The burden of proof in this case does not rest with UKI because the claim can reasonably and fairly be declined on the basis that there is there is no insured event (and it's for the insured to show that there was an insured event).

UKI aren't under any obligation to go on from that and explain what they think the cause of the damage is (if not an insured peril). They did that in this case – I suspect simply so that T had a fuller explanation of what UKI thought had caused the damage.

It wasn't helpful to do so without also explaining that the actual reason for declining the claim was the fact there was no insured event. But that doesn't mean UKI are now under an obligation to reconsider the claim and/or rely on an exclusion to decline it.

In summary, I haven't been presented with any evidence, information, or arguments in this case to make me think that the suggested outcome set out in my provisional decision was wrong. And I remain satisfied that UKI can fairly and reasonably decline this claim based on the fact that there was no insured event.

My final decision

For the reasons set out above, and in my provisional decision, I don't uphold T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 7 November 2025.

Neil Marshall
Ombudsman