

The complaint

Mr C complains about the decline of his marine insurance claim by MSIG Europe SE trading as MS Amlin Insurance SE ('MSIG').

MSIG are the underwriters (insurers) of this policy. However, much of Mr C's dissatisfaction relates to the actions of agents (intermediaries and surveyors) acting on behalf of MSIG. As MSIG have accepted responsibility for the actions of their agents, any reference to MSIG in my decision should be interpreted as also covering the actions of their agents.

Mr C is represented in this complaint by a family member and has also provided submissions from another third party after our Investigator's assessment. In my decision I will only refer to Mr C.

What happened

The background to this complaint is well known to Mr C and MSIG. I won't repeat in detail what's already known to both parties, instead, in my decision I'll focus mainly on giving the reasons for reaching the outcome that I have.

On 2 August 2024, Mr C contacted his insurance broker to let them know his boat had suffered damage after being flooded with rainwater. They said gradual damage wouldn't be covered by the policy. Mr C said the damage occurred after a brief period of very bad, localised weather. Mr C was asked to complete a claims form. Some time passed and the broker followed up in November 2024. Mr C raised a complaint and MSIG said that they'd agree to cover the cost of a surveyor of Mr C's choosing. The claim was declined.

Mr C was unhappy with the response to the claim and raised a complaint. He then referred the complaint to our Service for an independent review. Our Investigator considered the complaint but didn't recommend that it be upheld. As the dispute remains unresolved, it's been referred to me for a 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.

Our Service is an alternative, informal dispute resolution service. Although I may not address every point raised as part of this complaint - I have considered them. This isn't intended as a discourtesy to either party – it simply reflects the informal nature of our Service. I make this point as a vast volume of representations have been made by both parties in this dispute. My decision won't replicate that, but I can assure both sides in the dispute I have carefully considered all the evidence before reaching my decision. I have also kept in mind MSIG's obligations to treat Mr C fairly (particularly given his vulnerabilities), the Consumer Duty and ICOBS.

Although our Service's role here is to independently and impartially consider the complaint, I'm very sorry to hear of Mr C's health deterioration and the impact this claim event has had on him.

I have noted Mr C's requests for extra time to provide further evidence – such as a report to challenge the surveyor's findings, but no such evidence has been forthcoming. Therefore, I've had to consider the available evidence on file after both parties have been given a fair and adequate opportunity to make their representations. If Mr C does have further evidence, he'd first need to present it to MSIG for their consideration.

The scope of my decision

I'm considering in this decision the service provided by MSIG when responding to this claim and whether they've fairly considered the claim before declining it in line with the policy terms.

I'm not considering the actions of the boat yard owner when possibly moving the boat to another location, giving access to the surveyor or any comments they made to the surveyor. The actions of the boat yard owner are beyond the scope of this decision and Mr C can take legal advice on those issues.

Generally, it will be the insurer who instructs a surveyor in this type of claim. I find that it was positive to allow Mr C the choice of his own surveyor. The survey was carried out by an independent surveyor that was Mr C's choosing. MSIG were paying for the survey and gave the instructions as to the extent of the survey. They've now confirmed that the surveyor was acting in capacity as their agent. This means MSIG are responsible for the actions of the surveyor.

The claim investigation

Mr C has raised issue with the extent of the survey carried out. In an email to Mr C dated 18 March 2025 prior to the survey, it was stated (bold added for Ombudsman's emphasis):

*"Please be assured that I have not changed my mind and I have not said a full structural survey is required. To be clear, we have agreed on this occasion for your chosen surveyor; [redacted by Ombudsman] to carry out a **full damage survey**. Whilst this may only look at the specific area of damage on the vessel, the importance of the survey is to find the cause or reason for the damage, **which may require the surveyor looking at other areas of the vessel**.*

*The assistance of an independent professional surveyor represents your best interests and **to ensure that the full extent of the damage is uncovered and to suggest likely repair options**.*

*As per my previous email, the report from [redacted by Ombudsman] will need to include **the extent of damage**, type of repair required, costs to be incurred, along with **confirmation of causation**."*

I'm satisfied that the survey scope as requested by MSIG was reasonable in its' scope, this was communicated beforehand. It wouldn't at all be uncommon that where a claim of this nature is made, a survey will primarily consider the damage being claimed for, but also the condition of the boat. In an email to MSIG after the survey, Mr C stated:

"he even checked the boat for moisture content which again should never have been part of this survey."

But it would also be reasonable to determine the extent of the water ingress into the boat when determining how suddenly the damage had occurred.

Mr C has also raised issue with the survey being carried out without him being present and that he'd contacted the surveyor to let them know he'd be unable to attend the appointment – but it went ahead anyway. From experience, although I can understand Mr C's frustration, it wouldn't be a requirement for the insured (Mr C) to be present at the time of a survey being carried out. In any case, the surveyor's findings must be evidence based and I'm not at all persuaded that Mr C being absent has, in anyway, impacted or influenced the survey's findings. Both parties have had sight of the survey and Mr C has been given a fair opportunity to challenge the survey's findings with additional evidence.

I find that MSIG responded fairly to the claim, particularly when letting Mr C pick his own surveyor.

The claim decline

In summary, MSIG declined the claim, stating the following:

“This is based on your chosen surveyors findings that the cause of loss is as a result of lack of general maintenance, due care and neglect, in addition to rainwater having slowly filled the hull shell over a very long period of time, which could have been avoided if general maintenance and care had been adhered to.”

Having carefully considered the survey, I find that MSIG have fairly reached their claim decline position when choosing to rely on the survey findings. This policy includes exclusions related to gradual deterioration over time (4.10) and the incursion of water (4.12, 4.13). On balance, I find that MSIG have fairly declined the claim. Mr C has argued that the cause of the damage was a short spell of severe wind and rain, despite him having the boat properly protected with *“a custom heavy-duty, waterproof tarpaulin that was fastened with proper fittings and additionally reinforced with ropes and elastic bungees for security.”*

In more recent submissions, Mr C has referred to storm conditions around the time of the damage occurring. Weather data doesn't support that storm conditions occurred around the relevant time period. I note in Mr C's most recent submissions he's referenced storm conditions long before the relevant time period being considered here. I find that MSIG's position - poor weather over a period of time rather than a storm type conditions highlighted issues with the boat to be reasonable.

MSIG have referred to the maintenance of the boat when declining the claim and I consider their position reasonable, but the primary reason for the decline was how the damage occurred and that's the focus of this decision.

I also note that Mr C has said:

- *“The yard moved my boat without my knowledge from its original covered position, which likely contributed to a slight misalignment on the trailer and greater exposure...”* and
- *“That repositioning and exposure were not under my control.”*

In his most recent submission from a third party, it is stated: *“the yard owner himself admitted that the boat had been moved, which can loosen alignments on a trailer. But even after that movement, I re-secured the covers with the reinforced method. At no stage was the boat left exposed without cover for any extended period.”*

Regardless, this decision is not considering the actions of the boat yard owner and if Mr C feels he has suffered a loss or damage because of their actions, he'd need to take legal advice on that matter.

Mr C requested a second expert opinion, but I find that MSIG acted reasonably when not authorising this. Mr C declined the appointed surveyor and was allowed to choose his own. MSIG have been clear that if Mr C presents further evidence it will be considered, but that would need to be at his own expense.

In summary, I find that MSIG acted reasonably when relying on the survey findings and have fairly declined the claim in line with the policy terms.

The service provided

The service provided by MSIG did not meet his expectations. Mr C has alleged the survey was carried out illegally. I've not seen sufficient evidence to support this argument - for example it seems the surveyor spoke to the boat yard owner to gain access and this had been arranged the day before the survey was to take place. Mr C has the option of seeking out legal advice as to any potential recourse he could take on this matter.

As already explained above, I find nothing unusual or irregular with regards to the survey. Mr C argues it ought to have been more limited in scope, but a survey following a claim of this nature will look at the overall condition of the boat. This is partly because if the claim was successful, any repair carried out would need to be lasting and effective. Only focussing on the apparent problem area could, in some circumstances, prevent this happening. In any case, MSIG are entitled to carry out whatever enquiries they see fit to validate a claim. The insured (Mr C) does not dictate the extent of their enquiries and with any insurance policy, the insured has an obligation to (within reason) co-operate with the insurer to allow them to validate a claim.

Although I find it was reasonable of MSIG to rely on the findings of the survey, I accept that annoyance and uncertainty has been caused to Mr C by the surveyor going ahead with the appointment in his absence and this has led to a breakdown in Mr C's faith and trust of MSIG. When I've considered the testimony of the surveyor, it suggests:

- Mr C's wife sent a text message to the surveyor at around 6pm the night before the survey to let him know that Mr C was unwell. The surveyor's testimony: *"I replied saying you do not need to be present for this type of survey and that I had spoken with [boat yard] to let them know I would be there early....No response from you or your wife telling me I could not carry out the survey without anyone else present."*
- Mr C's wife then text on the morning of the survey (9.20am) with further detail about the engine and apologised for any mess on the boat. No mention was made of access not being granted for the survey to take place.
- The next message was related to how long the surveyor would be there and when could he let Mr C know the survey findings.

I accept that Mr C wanted to be present when the survey happened, but the surveyor had let him know he didn't need to be there and it wasn't unreasonable that the surveyor went ahead and carried out the arranged survey.

On balance, I don't agree that the service provided here was poor to the extent that MSIG need to do anything to put things right, as the service provided by the surveyor was

reasonable – but I accept it may not have met Mr C's expectations. When reaching this finding I have also carefully considered Mr C's personal circumstances.

Summary

I find that MSIG have fairly and reasonably responded to this claim and have fairly declined it in line with the policy terms, whilst providing an adequate level of service.

My decision will of course be hugely disappointing for Mr C and I've carefully noted his comments about the importance of this boat and getting it repaired. Whilst he has my sympathies, my role here is to independently and impartially consider the complaint based on the evidence presented.

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 Mr C to accept or reject my decision before 16 December 2025.

Daniel O'Shea
Ombudsman