

complaint

Mr and Mrs S are unhappy that U K Insurance Limited (UKI) has rejected their buildings insurance claim and won't pay the cost to repair their damaged roof.

background

In the early hours of 18 January 2018, Mr and Mrs S' flat roof was badly damaged. Mr and Mrs S said the damage was a result of a storm. On the same day, they contacted their insurer, UKI, to log a claim. On the advice of UKI, Mr and Mrs S arranged for a roofer (roofer 1) to secure their property to prevent any further damage.

On 22 January 2018, UKI's surveyor visited the property. By this time the roof had been covered with tarpaulin. So the surveyor looked at photos provided by Mr and Mrs S to determine the cause of the damage. The surveyor concluded that the claim wouldn't be covered due to poor workmanship, noting:

"it's clear by the colour of the timber and absence of nails, that the first layer of felt had not been bonded to the timber decking board. In our considered opinion the dominant cause of damage to the flat roof is defective workmanship."

Mr and Mrs S disputed that the damage was a result of poor workmanship. They said the extension had been built in accordance with building regulations. Mr and Mrs S provided information to UKI which they, and roofer 1, believe shows their roof was installed in line with the manufacturer's guidance.

They also complained the surveyor had given them conflicting information about the weather conditions on the day by first saying there wasn't a storm and then that there was. And that the surveyor had initially said if there was a storm, the claim would be covered.

The repair works to Mr and Mrs S's roof were completed by roofer 1 on 7 February 2018.

UKI's loss adjuster visited Mr and Mrs S' property on 28 March 2018 and reached the same conclusion as the surveyor - that the damage had been caused as a result of faulty workmanship. So UKI repudiated the claim. It said, while there had been a storm (as there were winds of 48mph), the storm had merely highlighted the poor workmanship, but was not the main cause of the damage. It did however apologise for giving conflicting information about the weather conditions on the day in question and for delays in sending reports to Mr and Mrs S. To recognise this it offered £150 compensation. Mr and Mrs S remained unhappy, so brought their complaint to this service

Our investigator considered the complaint. Having done so she was satisfied that: there were storm conditions on or around the date the damage occurred; the damage was consistent with damage a storm typically causes; the storm conditions were the main cause of the damage.

She found the evidence of roofer 1 – a roofing specialist with over 20 years' experience in the industry and a member of the government's licenced competent roofer scheme - to be particularly persuasive. And so she didn't agree that the roof had been improperly installed, or that the storm conditions had merely highlighted poor workmanship. So she concluded the storm was the main cause of the damage, and that UKI should pay the cost of repairing the roof.

UKI disagreed with the investigator's opinion. Following this, it was agreed between the parties that an independent third party roofer – roofer 2 - would assess the damage to determine the main cause of it. Roofer 2 concluded that winds of over 55mph might cause such damage, but it didn't think winds of 48mph would've. It thought poor workmanship had exposed the roof to the elements, therefore creating a tunnel which allowed winds to blow under the roof.

Having considered roofer 2's findings, our investigator decided the main cause of damage was instead poor workmanship. So she said UKI didn't need to cover the claim.

Mr and Mrs S disagreed. They said roofer 2's report was not credible as it refers to a different address and so can't be taken into consideration. Because Mr and Mrs S disagreed, the complaint was passed to me for a decision. In my provision decision I said:

my provisional findings

UKI is entitled to decide what it will and won't cover when providing insurance, and the terms and conditions of the policy will define what these are. What I need to decide is whether UKI's decision to decline Mr and Mrs S' claim for storm damage is in accordance with the policy terms and fair in the circumstances.

When a consumer makes a claim, the onus is on them to show that, on the balance of probabilities, an insured event caused the damage. But, when an insurer wants to apply an exclusion or say a condition has not been met and so decline a claim, the onus is on it to show, on the balance of probabilities, that the exclusion or condition applies.

When looking at a complaint about a declined claim relating to storm damage, there are a number of things I need to consider. I'll deal with each of these in turn

It's not in dispute as to whether there was a storm. UKI has accepted there were storm conditions as wind speeds reached 48mph on the day in question. And having checked weather reports myself, I'm satisfied this data is accurate.

Next, I need to consider whether the damage is consistent with damage a storm typically causes. From looking at the photographs, I can see Mr and Mrs S' felt roof had become detached from their property. And as our investigator said, I too think this type of damage is consistent with damage a storm typically causes.

The contentious issue here is whether the storm conditions were the main cause of the damage. UKI say the storm simply highlighted the faulty workmanship and was therefore, not the main cause of the damage. Whereas Mr and Mrs S say the roof had been fitted in accordance with the manufacturer's installation guidance, and that this was supported by roofer 1's evidence.

The policy sets out that cover is not provided for faulty workmanship – so UKI are entitled to decline a claim on this basis, provided it's proven on the balance of probabilities that faulty workmanship was the main cause. So I've considered the evidence provided by both parties to determine whether I'm satisfied UKI has done this.

When UKI's surveyor first visited the property, it had already been covered with tarpaulin, so the surveyor had to base their opinion on photographs. And, when UKI's loss adjuster visited the property in March 2018, the damage had been fully repaired. The loss adjuster says in their report that they weren't able to validate the damage fully as a result.

By contrast, roofer 1 visited the property shortly after the damage occurred and was able to see first-hand the extent of it. I'm therefore satisfied, that roofer 1 was in a better position to determine what caused the damage.

I also note that the loss adjuster's report incorrectly refers to the damage having occurred on 17 January 2018, rather than the 18 January 2018. The loss adjuster's conclusion – that the type of damage sustained wouldn't have been caused by minor winds – was based on wind speeds from 17 January, not 18 January.

Furthermore, the report refers to the *"flat roof from the garage"* having been damaged but it was instead the roof of Mr and Mrs S dormer extension that was affected. These inaccuracies cause me to question the credibility of the report and in turn the loss adjuster's conclusion that faulty workmanship was the main cause.

I've considered the evidence provided by Mr and Mrs S and roofer 1. Having looked at the manufacture's guidance for installing Mr and Mrs S' type of roof, I think it's more likely than not that it was laid correctly. The guidance says *"the product is loose-laid and then secured during application of the subsequent torch applied underlay"*. And this is how roofer 1 said Mr and Mrs S' roof had been laid.

The manufacturer's guidance differs to the position UKI has taken – namely that the roof had been laid incorrectly because there *"was an absence of nails [and] the first layer of felt had not been bonded to the timber decking boards"*. Roofer 1 has also explained that it hasn't been industry practice to use nails to secure Mr and Mrs S' type of roof for a number of years.

I note that roofer 1 has many years' experience in the industry and is a member of the government's competent roofer scheme. Registration with this scheme is not automatic. Contractors must satisfy certain criteria in order to qualify, and they are subject to random inspections to ensure their work meets with building regulations. So I'm satisfied, that roofer 1's opinion is credible.

Mr and Mrs S were provided with a "Final Certificate" to confirm the extension had been built in accordance with building regulations. The certificate relates to the works outlined in the initial notice which states - *"loft conversion with side and rear dormers, and single rear extension"*. So I'm satisfied the certificate covers the installation of the roof.

Having originally upheld Mr and Mrs S' complaint, our investigator changed her opinion after receiving roofer 2's report. I've looked at this report and having done so, I'm not persuaded it supports UKI's position that the main cause of damage was faulty workmanship.

I say this because first, the address named on the report isn't that of Mr and Mrs S' property. So I can't be confident that the content actually refers to their property, and even if it had the correct address, I'm not persuaded by the content of the report. I say this because roofer 2 doesn't provide any detail about why they believe the roof to have been incorrectly installed – instead the report simply says *"the roof was not installed correctly and one would suggest certain elements were not encapsulated as per the recommended installation procedure"*. This isn't enough to satisfy me that the roof had been improperly installed when it was built.

There's also ambiguity about whether winds of 48 mph could've caused the damage as roofer 2 says it's *"questionable"*. This suggests that it's therefore, not impossible for winds of 48mph to be the main cause of such damage.

Of particular note is that roofer 2's report was produced after looking at photographs of Mr and Mrs S' property, so the findings aren't based on a visit to the property – which contrasts with roofer 1, who had made their findings after visiting Mr and Mrs S's property shortly after the damage occurred.

So having carefully considered the above – I think it's more likely that the main cause of damage to Mr and Mrs S' roof was storm conditions, and not faulty workmanship. So, I'm currently minded to uphold this complaint and say UKI should accept the claim.

my provisional decision

My provisional decision is that I uphold this complaint. U K Insurance Limited must:

- pay the cost of repairing the damage to Mr and Mrs S' roof.
- add 8% simple interest to any cash payment it makes in settling the claim. This should be calculated from the date the damaged occurred to the date payment is made.
- if it's not already done so, U K Insurance Limited must pay £150 compensation. It must pay the compensation within 28 days of the date on which we tell it Mr and Mrs S accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Both parties responded to my provisional decision. UKI said roofer 2 had made a mistake in adding the incorrect address to its report, but that it confirmed the content of the report related to Mr and Mrs S' property. UKI added that it thought it was reasonable for roofer 2 to base its report on photographs rather than visiting Mr and Mrs S' property as the roof had already been repaired.

Mr and Mrs S agreed with my provisional findings but wanted assurance that the internal repair works would be covered by UKI. Mr and Mrs S explained that UKI's surveyor's report was written after the tarpaulin had been laid, but prior to the permanent roof being repaired – and that in the intervening period there had been several days of heavy rain which had caused additional water damage.

Mr and Mrs S also provided invoices to evidence the costs they'd incurred in having their roof, boiler flue and gutter repaired. They also confirmed that UKI had paid them £150 compensation.

my findings

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 remain of the opinion that the damage to Mr and Mrs S' roof was caused by storm conditions and not faulty workmanship.

UKI has said roofer 2's report does relate to Mr and Mrs S' property even though the address is incorrect. I've thought about this but remain unpersuaded by the content of the report. As I said in my provisional decision, roofer 2 hasn't substantiated their claim that the roof was laid improperly as there's no detail explaining how roofer 2 reached their opinion. Rather the report says "*certain elements were not encapsulated as per the recommended installation procedure*". So even if the address were correct, I'm not persuaded that the report shows that the damage was more likely caused as a result of poor workmanship rather than a storm.

Mr and Mrs S have confirmed that UKI has already compensated them £150. So I'm satisfied UKI don't need to do anything else in respect of this.

Mr and Mrs S want me to assure them that the internal repairs work to their property will be covered by UKI. They've said there's been additional water damage since the surveyor's report and they're concerned UKI won't fully cover the damage.

I've seen that UKI had previously agreed to cover the internal repairs. So I would expect it to deal with this part of Mr and Mrs S' claim in line with the policy terms and conditions. If Mr and Mrs S have any concerns about how UKI deal with this element of their claim, they would need to raise a new complaint with UKI.

my final decision

My final decision is that I uphold this complaint. U K Insurance Limited must:

- pay the cost of repairing the damage to Mr and Mrs S' roof subject to Mr and Mrs S providing evidence of the costs they've incurred.
- add 8% simple interest to any cash payment it makes in settling the claim. This should be calculated from the date the damaged occurred to the date payment is made.
- deal with the internal damage part of the claim in line with the policy terms and conditions.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs S to accept or reject my decision before 20 July 2019.

Nicola Beakhust
ombudsman