

## The complaint

Mr B complains that Society of Lloyd's has turned down a storm damage claim he made on his Let Property Insurance Policy.

## What happened

In March 2018, Mr B returned from abroad to be told that there was water damage to the inside and outside of his rental property. He got in touch with his broker to make a storm damage claim. He said the guttering had come away from the external wall following heavy snowfall during January and February 2018. He sent photos to his broker showing the damage. Mr B also got the guttering fixed.

Lloyd's appointed a loss adjuster to investigate the cause of the damage. The loss adjuster didn't think the damage was consistent with storm damage. Its report said it didn't think the snowfall had been intense enough to cause the damage to the guttering. And it said the internal damage wasn't consistent with a recent ingress of water. It thought the damage had been ongoing for a long time. So Lloyd's turned down Mr B's claim as it didn't think the damage was down to storm.

Mr B wasn't happy with Lloyd's decision. He questioned how Lloyd's could say the damage was historic when it hadn't surveyed the property before the claim was made. He said if the damage had been historic, he wouldn't have been able to find tenants. As a result of the claim and the time it had taken, he told us he'd lost two of his tenants. Mr B asked us to look at his complaint.

Our investigator didn't think Mr B's complaint should be upheld. She said the weather conditions around the time of the claim could be considered as a storm, given the wind speeds and the snowfall. But she said the policy stated only emergency repairs should be carried out in the event of a claim, so that Lloyd's would have the opportunity to assess the cause of the damage. As Mr B had already had the guttering repaired; the investigator thought Mr B had denied Lloyd's this chance. She also thought the photos of the damage backed-up the loss adjuster's findings. Overall, she didn't think Mr B had shown the damage was due to storm conditions.

Mr B disagreed. He didn't think that his policy only allowed for emergency repairs. He said it'd been nearly two months between him making the claim and the loss adjuster visiting. If he hadn't got the guttering repaired, the damage would've been worse. He asked for his complaint to be reviewed.

I issued my provisional decision on 9 April 2020. In my provisional decision, I explained the reasons why I thought it was fair for Lloyd's to turn down Mr B's claim. I said:

*'First though, I should make it clear that having considered the terms of Mr B's policy, I think the fact he got the gutters repaired was reasonable and sensible. The policy says that a*

*policyholder must take reasonable care to limit loss or damage. I think that by getting the gutters replaced, Mr B sought to limit the damage to the property.*

*Mr B claimed for external damage to his guttering and internal water damage due to heavy snowfall. Weight of snow is covered by Mr B's policy and is a weather event. For the purposes of this decision, I'll refer, at times, to storm conditions when considering whether or not Mr B's claim should be covered.*

*When we look at complaints about storm damage, there are three questions that we need to ask:*

- Were there storm conditions on or around the date of the claim?*
- Is the damage consistent with storm damage?*
- Were the storm conditions the main cause of the damage?*

*If the answer to any of these questions is "no" then the claim won't succeed.*

*Were there storm conditions on or around the date of the claim?*

*I've carefully considered local weather reports for around the time it seems the damage was noticed by the tenants. I can see that in mid-late February 2018, there were wind speeds of up to 50mph. And snow depths of up to 34cm were noted. I currently think - given the wind speeds, coupled with the level of snowfall around the time - that these prevailing weather conditions can be considered to be storm conditions.*

*Is the damage consistent with storm damage?*

*Mr B says that guttering came away from the wall because of the weight of snow. And that water ingress happened as a result, causing the internal damage. In my view, I think damage to the guttering could be consistent with heavy snowfall and storm conditions. I also think that resulting internal water damage can often be consistent with storm damage.*

*Were storm conditions the main cause of the damage?*

*I've thought carefully about this. For a claim to be paid, it needs to be because of something that's covered by the policy, which we generally call an 'insured event'. In this case, Mr B's claiming for damage caused by the weight of snow. Lloyd's needs to be satisfied that the damage Mr B's claimed for was caused by the weight of the snowfall.*

*It's generally for a policyholder to show a claim has been caused by an insured event. But insurers generally investigate this on a policyholder's behalf. That's what's happened here. Lloyd's asked its loss adjuster to investigate the likely cause of the damage.*

*Because Mr B had already had the gutter repairs done, the adjuster wasn't able to inspect the old gutters to see if the snow had been the cause of it coming away from the external wall. So we asked the loss adjuster how it'd reached its conclusions that heavy snowfall hadn't been the most likely cause of the gutter damage.*

*It told us that it thought it was highly unlikely that timber gutters in a sound condition would've been damaged by the weight of snow recorded. Instead, it said it was most likely the gutters had been replaced because they'd reached the end of their life due to rot, wear and tear, decay and weathering.*

*I have to make a decision based on what I think is most likely to have happened. In this case, the only expert evidence I have is from the loss adjuster, who didn't get the chance to inspect the guttering. Mr B hasn't provided me with any expert evidence to counter the loss adjuster's findings. And I've also borne in mind that in one of his emails to Lloyd's, Mr B said his builder had told him that his neighbour's guttering hadn't been correctly fixed. He said the builder had told him rainwater had been running down from his neighbour's roof into his gutter and down the outside wall. Based on this, it doesn't seem as if Mr B's builder considered the snowfall was the likely cause of damage.*

*So, on balance I currently don't think the main cause of the damage to the guttering was storm. I've then turned to consider the damage to see whether I think the main cause of the internal damage was down to the snowfall. I've first carefully considered the loss adjuster's report. It noted that 'salting was apparent.' It said the plaster had come loose. The report also stated:*

*'The internal damage appears to be a long standing issue and the damage is not considered to be consistent with recent water ingress. The damage we inspected at the time of our visit is consistent with long term water ingress resulting in severe damp.'*

*I've looked closely at the photos both Mr B and the loss adjuster provided. From what I can see, there are signs of damp and some of the woodwork internally has split. Based on what I've seen, given the extent of the damage in the photos, they do seem to show that the water ingress had been happening over period of time. The damage seems extensive, given the short time between the snowfall and the claim being made.*

*Again, the loss adjuster's report is the only available expert evidence I have. The loss adjuster had the opportunity to inspect the property and the damage and they've recorded their findings. Mr B hasn't provided any expert evidence to show me the damage was most likely caused by a one-off event. So I'm not currently persuaded that the internal damage was down to storm or heavy snowfall. This means I currently think it was fair for Lloyd's to turn down Mr B's claim.*

*I've then turned to think about if Lloyd's delayed its handling of Mr B's claim. I can see from an email chain Mr B's provided that his broker sent him a claim form on 16 March 2018. Lloyd's said it didn't get a claim form. It isn't clear if Mr B filled one in. It appears the next email Mr B sent to his broker was on 25th April 2018, attaching photos and a video of the damage. This was followed up with an explanation about what had happened the next day.*

*It seems it was at this point that the broker sent the claim onto Lloyd's. It assessed the photos and decided to appoint the loss adjuster to do a further investigation. The loss adjuster was appointed on 1 May 2018 and visited Mr B's home two days later. So it seems to me that Lloyd's knew about Mr B's claim for around six days before it asked the loss adjuster to investigate the claim. I don't think this was an unreasonable timeframe for Lloyd's to look into Mr B's claim.*

*Overall, I'm currently persuaded that Lloyd's has treated Mr B fairly in its handling of his claim.'*

I asked both parties to send me any more evidence or information they wanted me to look at before I reconsidered the complaint.

Lloyd's said it had nothing further to add.

Mr B disagreed with my provisional decision. I've summarised his main points here:

- The gutters weren't very old; so they hadn't reached the end of their life.
- The loss adjuster had only visited the property for around 10 minutes and they weren't a builder.
- He didn't know he needed to provide expert evidence to counter the loss adjuster's findings – this isn't set out in the policy.
- His builder had noticed Mr B's neighbour's drain was higher than this, so once the gutter had been dislodged, the excess rain from next door ran down his wall instead of the gutter. This had also caused more damage to his property.
- His builder did think the cause of the damage was snow.
- He had made a mistake in disposing of the old gutter – if the loss adjuster had come out more quickly, she'd have seen it.
- I'd said that the damage was consistent with storm, but then found the damage wasn't down to storm.
- The gutter wasn't damaged by the weight of snow – it had pulled away from the wall, letting rain run down the roof and gutter.
- There was no evidence of damp before the gutter had been dislodged – a previous tenant would be prepared to sign an affidavit confirming this.
- The insurance company is insinuating that Mr B's lying and committing fraud.
- The snow and storm weren't the only cause of the damage – there were also heavy rains.
- A damp-proof course had been put in many years ago, so there was no reason for damp before the claim.

### **What I've decided – and why**

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I still think it was fair for Lloyd's to turn down Mr B's claim. I'll explain why.

I'd like to reassure Mr B that while I've summarised his response to my provisional findings, I've carefully considered it in detail when reaching this final decision. I haven't commented on each point specifically, because I've concentrated on what I think are the key issues. I'd also like to reassure Mr B that from all I've seen, there's no suggestion that he hasn't made a claim in good faith. Lloyd's simply thinks Mr B's claim isn't covered by the terms of his policy.

Mr B says the loss adjuster didn't visit his home for more than 10 minutes and says they weren't a qualified builder. The evidence I've seen suggests the adjuster inspected Mr B's property and took photos during their visit. They subsequently wrote a report setting out the likely cause of the damage. Their inspection was limited by the fact that the gutters had already been replaced. This meant their findings on the likely state of the gutters *had* to be informed based on the available evidence, past claims experience and what was most likely. I haven't seen enough though to make me think that the loss adjuster didn't carry out an appropriate inspection or accurately record their findings.

The loss adjuster didn't think weight of snow was the most likely cause of the damage. They've provided clear reasons for this position, which I think are supported by the photos showing the kind of damage Mr B's property suffered.

I appreciate Mr B said he didn't know he should provide evidence to counter Lloyd's loss adjuster's findings. This isn't a policy requirement. But he was told quite quickly after the loss adjuster's visit that the claim wasn't covered and why. So he could've asked an independent expert at that point to inspect the property. And if I'd had independent expert evidence which countered Lloyd's findings, I'd have carefully considered what it said and which piece of

expert evidence I found most persuasive. I also appreciate Mr B has said the gutters weren't old – but I haven't seen any invoices to show me when the gutters were last replaced or maintained. Or evidence which suggests they hadn't reached the end of their natural life.

Mr B feels that if there hadn't been a delay in the loss adjuster visiting the property, they'd have been in time to look at the gutters before they were thrown away. As I explained in my provisional decision, it doesn't look like Lloyd's learned about the claim until around 25 April 2019. This was some weeks after Mr B had first raised it with his broker. The loss adjuster was appointed about six days after Lloyd's found out about the claim and after Lloyd's had tried to assess it based solely on photos. So I don't think any delay in inspecting the property was down to Lloyd's or the loss adjuster.

I understand Mr B's questioned how I can find that the gutter damage is consistent with storm conditions, but then find the storm wasn't the main cause of that damage. I think damage to gutters and resulting internal water damage can broadly sometimes be found following periods of very heavy snow. So the *type* of damage seen *could* be consistent with storm. But in Mr B's case, while the damage could be consistent with storm, I simply don't think it was the *main* or dominant cause of the damage. I think the storm simply highlighted the condition of the gutters at that time.

As I explained in my provisional decision, the only expert evidence I have to weigh up are the loss adjuster's findings. I still think those findings are persuasive and backed up by the photos I've seen. I'm sorry that what's happened has caused Mr B to lose a couple of tenants. And I thank him for the offer of an affidavit from a former tenant to confirm there wasn't pre-existing damp.

But for Mr B's claim to be covered, Lloyd's needs to be satisfied it was down to a one-off event of storm. By Mr B's own account, some of the damage was down to the way a neighbour had installed their own gutter. He also said, in response to my provisional decision, that the snow wasn't the only cause of the damage – it was down to following heavy rains.

Based on the loss adjuster's findings and the photographs I've seen, I don't think it's most likely the main cause of the damage was a one-off event caused by weight of snow. So I still think it was fair for Lloyd's to turn down Mr B's claim.

### **My final decision**

For the reasons I've given above and in my provisional decision, my final decision is that I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 June 2020.

Lisa Barham  
**Ombudsman**