

## **The complaint**

Mrs R and Mr R complain about Ageas Insurance Limited (“AIL”) and the decision to decline the claim they made on their home insurance policy, following damage to a horse shelter on their property.

Mr R has acted as the main representative during the claim and complaint process. So, for ease of reference, I will refer to any comments made, or actions taken, by either Mrs R or Mr R as “Mr R” throughout the decision.

## **What happened**

The claim and complaint circumstances are well known to both parties, so I don’t intend to list them chronologically in detail. But to summarise, Mr R held a home insurance policy, which was underwritten by AIL in their role as the insurer. Unfortunately, in July 2023, Mr R’s horse shelter was significantly damaged during a lightning storm and so, he contacted AIL to make a claim.

AIL instructed a surveyor, who I’ll refer to as “V”, to validate the claim on their behalf. As V were acting as an agent of AIL, AIL are ultimately responsible for V’s actions. V completed a desk-based assessment of Mr R’s claim, which included reviewing the photographs provided. And having done so, they recommended the claim be declined as they didn’t think there was evidence of lightning damage, and they thought there was evidence of poor workmanship regarding how the shelter itself was built. AIL followed this recommendation and declined the claim. But Mr R was unhappy about this, so he raised a complaint.

Mr R didn’t think AIL’s repudiation of the claim was fair, as he didn’t think they were fair to rely on an exclusion when he didn’t think an actual cause for the damage had been determined. And he was unhappy with AIL’s communication setting out the repudiation, and the reasoning for it. Mr R maintained the shelter was built to a satisfactory standard and so, he maintained his view the claim should be accepted.

AIL responded to the complaint and upheld it in part. They thought the claim had been declined fairly, in line with the policy terms and conditions. But they explained they would review this position should Mr R provide his own expert report that disputes this position, considering the fact V’s assessment was completed remotely. Mr R remained unhappy with this response, explaining why which included his belief that it was fair to expect him to cover the cost of a new expert report. As Mr R remained unhappy, he referred his complaint to us.

Our investigator looked into the complaint and upheld it in part. They thought the claim had been declined fairly, considering the storm definition contained within the policy and V’s expert opinion. And they thought AIL’s offer to reconsider the claim upon receipt of an opposing expert report was a fair one. But they did think AIL had failed to communicate with Mr R during the claim process and so, they recommended AIL pay Mr R £75 to recognise any inconvenience this caused.

AIL agreed with this recommendation. But Mr R didn't, providing several comments setting out why. This included, and is not limited to, a detailed understanding of how he interpreted the policy terms and why he thought AIL were unfair to rely on them. And a rationale explaining why he thought the burden of proof should fall on AIL to show why the claim shouldn't be accepted, rather than him showing the damage was caused by an insured peril. As Mr R didn't agree, the complaint has been passed to me for a 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.

Having done so, I'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I want to recognise the impact this complaint has had on Mr R. I recognise he would've taken out the policy underwritten by AIL to assist him both practically and financially in a situations such as the one he found himself in. So, when AIL decided to decline the claim he made, I can understand why he'd feel unfairly treated and choose to pursue a complaint.

In this situation, I note Mr R would ultimately like AIL to overturn their original claim decision and accept the claim he made. But for me to say AIL should do this, I'd need to be satisfied AIL acted outside of the policy terms and conditions when declining the claim. Or, if I think AIL acted within these, I'd need to be satisfied they acted unfairly in some other way, which then prejudiced their claim decision. And in this situation, I don't think that's the case.

And before I explain why I reached this decision, I think it would be useful for me to explain what I've been able to consider and most crucially, how. It is not my role, nor the role of our service, to re-underwrite the claim, as we don't have the expertise to do so. Instead, it is our role to consider the actions of AIL, and the claim decision they reached, and decide whether we think they were fair and reasonable based on the evidence available to them. So, this is what I've done.

I've carefully reviewed the policy terms and conditions, taking into consideration the comments Mr R has provided. And I recognise they do state AIL will cover "*Any loss or damage to your buildings*". But I don't think it's reasonable to interpret this term and unlimited cover, for any situation. In line with standard industry approach, I would still expect AIL to validate the claim and as part of this, to satisfy themselves the damage being claimed for was caused by a one-off event, caused by an insured peril they intend the policy to cover. And I think this is what they have done here. But I must make it clear to AIL that I can see why Mr R would dispute the cover included within the policy terms, and why he has interpreted them in the way that he has.

In this situation, I can see on the initial claim call, Mr R stated his belief the damage had been caused by a lightning storm. And it's accepted by Mr R, AIL and V, that there was an electrical storm in Mr R's location on the day in question. But, that the other weather conditions, including rain and wind, didn't meet AIL's storm criteria. So, I think AIL were fair to class Mr R's claim as a claim for damage caused by lightning and ask V to validate it as such.

I've seen V's report following this request for validation. And within this, they explain why, in their expert opinion, they didn't think there was evidence of lightning damage. And they go onto explain that, in their opinion, they felt the way in which the shelter had been constructed

had likely led to the damage. So, based on the above, AIL declined the claim.

It is standard industry approach for an insurer such as AIL to rely on the expert opinion of a surveyor they instruct. And I've seen within the policy terms and conditions, AIL state they do not cover damage caused by "*faulty workmanship, faulty design, or using materials*". And I think V's overall conclusions suggest the damage to the shelter was impacted by how it had been constructed.

So, as V recommended the claim be declined on this basis, and the fact there was no lightning damage present which I've seen in an email from V to AIL that Mr R himself tended to agree to accepting there wasn't a direct lightning strike, I don't think I can say AIL acted unfairly, or outside of the policy terms, when following this recommendation. This is because I think any other insurer would've most likely taken the same action, in the same situation. So, I don't think I can say the claim decision should be overturned.

I understand this outcome isn't the one Mr R was hoping for. And I want to recognise his comments and concerns regarding V's report, and how it was compiled. Specifically, that V reached their decision remotely, using photographs rather than visiting Mr R's property in person.

But I don't think I can say AIL acted unfairly when relying on V's opinion in light of this. There are times where a surveyor is unable to attend a property in person, for a variety of different reasons. As in line with standard industry approach, our service doesn't automatically discount an expert opinion that's been reached in these situations. AIL and V have confirmed the report was completed remotely as they didn't have a surveyor near to Mr R's location. While I understand Mr R's frustration around this, I think AIL and V acted in Mr R's best interests by continuing to validate the claim remotely, to prevent any delays that would've been caused by V's inability to locate a surveyor close to Mr R.

And I also note AIL have recognised the situation above and offered Mr R the chance to appoint his own surveyor to complete another report, at his own cost. And, if this report provides a conflicting opinion, they have agreed to consider this. I don't think this is an unreasonable option put forward by AIL. And we wouldn't expect AIL to cover the cost of this report, as they've already arranged for their own expert opinion. So, if Mr R wishes to take up this option, our service would expect Mr R to cover the cost of this report. But if it did support Mr R's position, we'd usually expect the costs he's incurred to be considered by AIL.

I recognise this is a risk to Mr R. But it is Mr R's own decision on whether he is willing to take this risk. And I do think this offer was presented to Mr R within two months of the claim being made and so, if Mr R has since removed any evidence he thought should be considered after this time, I don't think AIL can be held responsible for this. So, the above hasn't changed my decision regarding the claim outcome.

But I do think it's clear from the claim notes and correspondence I've seen that AIL failed to communicate clearly exactly why they were declining the claim. And, that their communication during the claim process, up to the point of decline and in the weeks after, could've been improved. I think this is accepted by AIL, as they accepted our investigators view which stated the same. So, I don't think it's disputed that they acted unfairly here and because of this, I've then thought about what I think AIL should do to put things right,

### **Putting things right**

Our investigator recommended AIL pay £75 to recognise the inconvenience and confusion their communication caused Mr R. And I think this recommendation is a fair one, that falls in line with our service's approach and what I would've directed, had it not already been put

forward.

I think it fairly recognises the fact AIL's communication with Mr R made the claim process more inconvenient than it should've been. And, that their conflicting information created confusion for Mr R, which I've no doubt made an already difficult message harder to understand and accept.

But I think it also fairly reflects the fact that overall, I think AIL progressed the claim in a timely manner, ensuring Mr R received a claim decision in a reasonable amount of time, albeit the decision not being the one he was hoping for. And I think it also takes into consideration the fact that, even if AIL's communication had been improved, Mr R would still not have received the overall claim outcome he was looking for. So, this £75 is a payment I'm directing AIL to make.

I appreciate this isn't an amount Mr R is likely to deem fair. And I want to reassure Mr R I've considered his comments regarding what level of compensation he felt was more appropriate. But Mr R's reasoning behind this referred to the inconvenience caused and associated to not having the funds to replace the shelter, due to the claim decline. And as I've set out above, I think Mr R would always have been in the position, as I can't say the claim was declined unfairly. So, this hasn't impacted the decision I've reached.

### **My final decision**

For the reasons outlined above, I uphold Mrs R and Mr R's complaint about Ageas Insurance Limited and I direct them to take the following action:

- Pay Mrs R and Mr R a total of £75 to recognise any inconvenience they were caused by Ageas poor communication.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R and Mr R to accept or reject my decision before 9 April 2024.

Josh Haskey  
**Ombudsman**