

The complaint

Mr C complains that Great Lakes Insurance SE has turned down a claim he made on a home insurance policy.

What happened

The background to this complaint is well-known to both parties. So I've simply set out a summary of what I think are the key events.

On 22 March 2023, Mr C's retaining wall collapsed. He made a claim on his home insurance policy.

Great Lakes appointed its contractor, who I'll refer to as D, to attend Mr C's property and assess the cause of damage. D attended Mr C's property in late April 2023. It concluded that the main cause of the damage was movement of the wall due to root and vegetation growth.

The policy did provide cover for claims caused by subsidence, landslip or heave. But such claims were only covered if there was also subsidence, heave or landslip damage to the policyholder's home at the same time. As Mr C's home itself hadn't been damaged by landslip, Great Lakes concluded that his claim wasn't covered by the policy terms. And so it declined Mr C's claim.

Mr C was very unhappy with the way Great Lakes had handled his claim. He didn't agree with its decision to turn it down. And he also said there'd been significant delays in its communication with him.

Great Lakes maintained its decision to decline the claim. But it acknowledged that it hadn't handled Mr C's claim as well as it should've done and so it offered to pay him £100 compensation.

Mr C rejected Great Lakes' offer and he asked us to look into his complaint.

Our investigator didn't think it had been unfair for Great Lakes to turn down Mr C's claim. That's because while she noted there had been high winds around the time of the claim, she didn't think there was evidence that these were the main cause of the damage. She didn't think it had been unfair for Great Lakes to rely on D's evidence to conclude that the claim wasn't covered by the policy terms.

And the investigator also thought that while Great Lakes hadn't handled the claim as well as it ought to have done, the compensation it had already offered Mr C fairly reflected the distress and inconvenience she thought he'd likely been caused.

Mr C disagreed and asked for an ombudsman's decision on his complaint.

Following our assessment, Mr C obtained an independent report into the cause of the damage, dated March 2024. The investigator explained to Mr C that we would only be considering Great Lakes' handling of his claim up until the point it issued its final response to his complaint on 5 July 2023. She told Mr C that he'd need to provide Great Lakes with a

copy of the report for its assessment. And that if Mr C was unhappy with the outcome of his claim following such a review, he'd need to make a new complaint to Great Lakes about that issue alone before we could potentially look into it.

The complaint's been passed to me to decide

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, whilst I'm sorry to disappoint Mr C, I don't think Great Lakes acted unfairly when it turned down his claim and I find its offer to pay him £100 compensation is reasonable. I'll explain why.

First, I must make the parameters of this decision clear. It will only consider Great Lakes' handling of the claim up until 5 July 2023 – the date it issued its final response to Mr C's complaint. This means I won't be commenting on the content of Mr C's March 2024 report and it would be inappropriate for me to do so. I understand Great Lakes has reviewed the evidence and reached a new claims decision. If Mr C is unhappy with the outcome of that review, he'll need to complain to Great Lakes about that particular decision before we can potentially help.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So I've considered, amongst other things, the policy terms and conditions and the available evidence, to decide whether I think Great Lakes treated Mr C fairly.

Both parties accept that Mr C's retaining wall collapsed on 22 March 2023. It seems that Great Lakes assessed whether or not the collapse was due to storm.

As the investigator explained, 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?

The policy doesn't define what Great Lakes means by storm. But while Great Lakes doesn't agree there were storm conditions on or around 22 March 2023, I've looked carefully at the local weather report it's provided, together with another weather report from that time. I can see that gale force winds of up to 56mph were recorded on one report and 57mph on the other, on 22 March 2023, both only a very short distance from Mr C's home. I think it's reasonable to conclude that these constitute storm winds. So I think the answer to the first question is 'yes'.

Is the damage consistent with storm damage?

The collapse of walls can be consistent with storm damage. So I think the answer to the second question is also 'yes'.

Were the storm conditions the main cause of the damage?

It's a general principle of insurance that it's for a policyholder to provide enough evidence to show they have a valid claim on their policy. Often though, an insurer will appoint a specialist to investigate a claim on a policyholder's behalf.

In this case, Great Lakes appointed D to investigate the cause of the damage. It provided photos of the collapsed wall to Great Lakes, as well as giving its opinion on the main cause of the damage. D said:

'In our opinion, it's reasonable to assume that root and vegetation growth is the dominant cause of the wall movement which as a result allowed the wall to collapse.'

I'm not a buildings expert and so it isn't my role to decide what the actual cause of the damage was. Instead, I've considered the evidence to decide whether I think it was fair for Great Lakes to rely on the expert evidence it had available when it issued its final response to Mr C's complaint on 5 July 2023.

Having considered everything, I think it was. D gave a clear cause of damage and the photographs show roots and vegetation growing close to the section of the collapsed wall. And while Great Lakes' notes say that, in March 2023, Mr C told it that an independent specialist had inspected the wall, there's nothing to suggest a report was provided at that point to counter D's findings.

On that basis, I don't think it was unfair or unreasonable for Great Lakes to rely on D's expert opinion to conclude that the main cause of the damage wasn't storm. Instead, I think it was reasonable for Great Lakes to conclude that the damage was down to wall movement – which it classified as landslip. So it went on to assess this claim under the subsidence, heave or landslip cover provided by the contract.

Page 9 says that the policy provides cover for landslip (which it states means downward movement of sloping ground.). However, the contract also sets out risks Great Lakes has chosen to exclude from cover. The policy sets out the following exclusion on cover for subsidence, heave and landslip:

'Damage to part b) the drives, walls, patios, paved terraces, footpaths, tennis courts, fixtures, fittings, permanently wired fixed alarm systems, fences and gates, plus statues, pergolas, gazebos, garden ponds, swimming pools and fountains that are all permanently fixed into the ground all belonging to the home in which you live unless part a) the home in which you live is damaged by the same cause and at the same time.' (My emphasis added).

I think the policy makes it clear that Great Lakes won't cover landslip claims unless a policyholder's home is damaged by landslip at the same time. There's nothing to suggest that Mr C's home was damaged and he hasn't made such a claim. So I don't think it was unfair for Great Lakes to conclude that Mr C's collapsed wall claim was specifically excluded by the policy terms.

For completeness, I've also considered whether Mr C's claim would be covered under the accidental damage cover he holds. But this section of the policy states that the following isn't covered:

'Damage by any cover listed elsewhere in the Buildings Option and which is specifically excluded under that cover.'

As Great Lakes concluded that Mr C's claim was caused by landslip and was already excluded under that section of the policy, I don't think I could fairly conclude that it should have been paid under the accidental damage section of the policy either.

Overall, whilst I sympathise with Mr C's position, I don't think Great Lakes acted unfairly when it turned down his claim.

Compensation

Great Lakes accepts there were unreasonable delays in its handling of this claim and in its communications with Mr C. It offered to pay Mr C £100 compensation. Mr C doesn't feel this is enough and he thought the award should be significantly higher so that Great Lakes would think about its conduct in the future.

It's important I make it clear that we're not the industry regulator. It isn't our role to fine or punish the businesses we cover. Instead, we consider the individual circumstances of each complaint to decide whether we think a financial business' error has caused a consumer to suffer material distress and inconvenience and if so, what, if any, compensatory award is fair to reflect this.

In this case, it's clear that Great Lakes failed to keep Mr C properly updated, that there were some delays in the assessment of his claim and that it failed to promptly give him written reasons for the decline. I don't doubt that this caused Mr C unnecessary frustration and inconvenience in chasing things up. And that he was put to additional time and trouble.

But in my view, £100 is a fair, reasonable and proportionate award of compensation to reflect what I consider to be the material distress and inconvenience Great Lakes' claims handling errors likely caused him over the course of this claim. And so I don't think it would be fair for me to direct Great Lakes to pay anything more. Therefore, I find that Great Lakes must pay Mr C £100 compensation within 28 days of this decision.

My final decision

For the reasons I've given above, my final decision is that it was fair for Great Lakes Insurance SE to turn down this claim. But I direct Great Lakes Insurance SE to pay Mr C £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 25 October 2024.

Lisa Barham
Ombudsman