

## **The complaint**

Mr J and Ms M complain about the way Atlanta Insurance Intermediaries Limited, trading as Swinton Insurance, administered their home insurance policy.

## **What happened**

I'll summarise the main points about this dispute:

- Mr J and Ms M bought their home in 1998. It had previously suffered from subsidence and been underpinned. Swinton had provided the home insurance to the previous owners and Mr J and Ms M continued that arrangement.
- Swinton is a broker. It has a panel of companies who may offer a policy to a particular consumer depending on the consumer's circumstances and each company's own business model and an insurer's approach to risk.
- Over the years, Swinton has sourced a home insurance policy for Mr J and Ms M. From at least 2009, that was through a company I'll call T, and the cover included subsidence. T was itself acting as an intermediary, providing the policy for insurers.
- In 2016, Swinton said it had "updated its systems" and none of the companies on its panel were prepared to offer cover due to the history of subsidence. I understand Swinton suggested Mr J and Ms M go direct to T.
- They did that, and T provided them with a policy. The cover was provided by an insurer, L, and it didn't include subsidence. A separate complaint has been considered about T.
- Mr J and Ms M complained to Swinton. They said it had lost or removed information about the previous underpinning, which had caused the loss of subsidence cover and years of stress trying to have it reinstated.
- Our investigator didn't think Swinton had lost or removed any information. It was aware of the previous underpinning at the 2016 renewal. But as none of the companies on its panel would offer cover at that time, Swinton couldn't offer a policy.
- Mr J and Ms M didn't take that complaint any further. But later they raised new points about the way Swinton had handled things. Swinton looked at those points as a second complaint and maintained it had acted fairly.
- Our investigator reviewed the second complaint and didn't think it should be upheld. She said Swinton was under no obligation to offer continued subsidence cover in 2016. And even if its communication at that time had been better, that wouldn't have changed the position Mr J and Ms M were in.
- Mr J and Ms M asked for an Ombudsman to consider their complaint.

## 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.

- The scope of this complaint is limited to the activities Swinton was responsible for in its role as an insurance broker. I can't consider any activities other parties were responsible for or the actions of those parties. So I won't be considering how T, L, or any other parties has acted in relation to Mr J and Ms M's policies.
- I know Mr J and Ms M feel strongly about what happened in 2016. But some of the relevant information, such as phone calls, isn't available any longer. Given the time that has elapsed since then, I don't find that unusual or unreasonable. But it means my findings will be based on the information that is available, together with what I think is more likely than not to have happened in the circumstances.
- There is an obligation on insurers to provide ongoing subsidence cover in certain circumstances. But that obligation doesn't extend to a broker, such as Swinton. A broker can't compel an insurer to offer certain cover that it doesn't want to, so it wouldn't be practical to expect Swinton to provide ongoing subsidence cover.
- Swinton's internal notes are quite clear that over the years, including in 2016, it was aware of the history of subsidence and underpinning. And because the companies on its panel weren't prepared to offer cover for properties with this kind of history in 2016, it couldn't provide a renewal for Mr J and Ms M at that time. That's why there was no renewal invitation that year. And there was no obligation on Swinton to provide a 'notice of change' or 'letter of transfer' in these circumstances.
- It's not clear how well Swinton communicated with Mr J and Ms M about what had happened and the options available to them. But it did make clear that it couldn't provide cover any longer. And it suggested they get in touch directly with T, which seems like a sensible thing to have done as T had been providing home insurance, including subsidence cover, for many years. I can't hold Swinton responsible for how T acted once Mr J and Ms M contacted it.
- I understand Mr J and Ms M feel they were misled when they spoke to Swinton in 2016. They recall it saying they weren't covered for subsidence, and they passed this information to T. They consider that influenced the way T later acted.
- Without the call recording, or any notes of it, and bearing in mind Mr J and Ms M's recollection is around seven years old, it's difficult to safely conclude what Swinton likely said at that time. It may have said it couldn't provide subsidence cover from 2016, which isn't the same as saying it hadn't done so before, and is accurate. Or it may have mistakenly given them wrong or misleading information. But even if it did make a mistake, I'm not satisfied it's been shown this influenced T.
- T is an intermediary in its own right and is responsible for treating Mr J and Ms M in line with relevant rules and guidance, and fairly and reasonably. They have complained about T's actions separately, so I can't consider T's actions here. But I note T was aware they wanted a policy with subsidence cover. And the way T dealt with this didn't depend on Swinton, but on the underwriting and approach to risk of the insurers T was in contact with. So I'm not persuaded Swinton had any impact on T, even if it did make a mistake.

- Overall, I'm satisfied Swinton treated Mr J and Ms M fairly in 2016. I know they've found it distressing to be left without subsidence cover since then and have invested a lot of time trying to find out more about what happened. But I haven't found anything to suggest Swinton treated them unfairly or contributed to the problem. So I'm not going to require Swinton to take any action.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J and Ms M to accept or reject my decision before 1 November 2023.

James Neville  
**Ombudsman**