

The complaint

Mr S has complained about the way AA Underwriting Insurance Company Limited dealt with a claim he made for subsidence on his home insurance policy.

Reference to AA includes its agents and representatives.

What happened

As the circumstances of this complaint aren't in dispute, I'll summarise what's happened.

- Mr S got in touch with AA in February 2020 after noticing cracks in the walls and ceilings throughout his home.
- AA initially intended to appoint a structural engineer or surveyor to inspect the damage. But, due to the location of Mr S' property, it had trouble doing so.
- By October 2020, AA then appointed a drainage company, C. I understand permission was needed from a third party for C to carry out a drainage investigation. By December 2020, C had investigated, found numerous defects, and made recommendations for repairs. This work was carried out by May 2021.
- In July 2021, AA arranged for a surveyor to create a scope of repair. But in October 2021, AA said trees were contributing to the problem. It appointed an arborist who recommended a number of trees for removal.
- Mr S removed trees on his land soon after and all other trees were removed by August 2022. AA said six months of monitoring would be completed to allow time for the ground to recover and stabilise.
- In January 2023, AA asked Mr S whether he'd noticed any further damage. He said there had been some and suggested AA carry out ground stabilisation work. AA sent a surveyor to inspect the damage and create a scope of repairs for the building. It also tested for asbestos, received positive results, and said it would update the scope to reflect the additional work needed. It also said it would have to settle the claim by cash payment as it didn't have a builder available where Mr S lives.
- Mr S complained about the way the claim had been handled. In particular, the time it had taken AA, the way AA had communicated with him, and the way AA intended to settle the claim by cash payment.
- AA responded in June 2023. It didn't uphold the complaint. It was still waiting for the scope of repairs to be updated and shared with Mr S.
- After Mr S referred his complaint to this Service, AA reviewed things again. It accepted there had been avoidable delays and said it was prepared to offer Mr S £250 compensation.

- Our investigator didn't think that went far enough to put things right. He said AA should pay £750 compensation to reflect the avoidable delays it had caused. Noting AA had accepted the damage had got worse, but had no evidence to show the property had stabilised, he said AA should take steps to show it was stable. And given the structural nature of the damage, he said AA should appoint a builder to do the work – especially as it had chosen to insure Mr S, aware of where he lives.
- AA partially agreed with our investigator. It accepted there had been more delays than it identified earlier and offered to pay Mr S £500 compensation. It said the additional damage was marginal and the causes of subsidence had been removed, so it thought the property was stable. It said it was unable to appoint a builder, so it would have to pay cash to settle the claim.
- Mr S didn't think £500 was reasonable but £750 was. He said he still hadn't received the scope of repairs but would be happy to use it to get quotes from local builders if it was shared with him and AA took responsibility for the work.
- As an agreement couldn't be reached, the complaint has been passed to me.

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.

- There are two main points to consider – the way the claim has been handled and the way AA intends to settle it. I'll consider each separately.

Claim handling

- AA has accepted there were avoidable delays and Mr S is due compensation as a result. As this isn't in dispute, I won't go over each and every detail of the claim, I'll focus on the key points.
- There was an initial delay between Mr S making the claim in February 2020 and the first action taking place in October 2020. AA knew when it insured Mr S where he lives, so it ought to have ensured it had appropriate measures in place to deal with a claim promptly. It didn't and that caused a significant avoidable delay. Whilst it would always reasonably have taken some time for AA to consider the damage, decide it was covered and what the appropriate next steps were, that would usually take around a month or so.
- I can understand an initial, unavoidable delay with the drainage investigation whilst seeking access permission from the third party. But it's not clear what caused it to take several months after that to carry out the repairs.
- It's also not clear why AA didn't consider the impact of nearby trees and appoint an arborist much sooner. That would have saved many months of delays. After that, it took steps to have trees removed by other parties as promptly as it reasonably could.
- In principle, I think a period of monitoring was an appropriate next step. There had been significant drain repairs and many trees removed. In these circumstances, it's not always easy to predict when the ground will recover and stabilise. And given the presence of many other trees, it may not stabilise at all.

- However, AA left Mr S to 'self monitor' the cracks. That's a very unusual thing to do. Visual monitoring, even by experienced professionals, can be unreliable and ineffective given the differences in crack width are usually a matter of millimetres. Some form of objective, accurate monitoring is usually undertaken to provide more reliable information. So it's unclear how useful this exercise this was – and whether it meaningfully contributed to the progress of the claim.
- AA appointed a surveyor to prepare a schedule of work in February 2023. But, by the time of its complaint response in June 2023, that still hadn't been finalised. The need for asbestos testing would inevitably have meant the schedule would take a little longer to prepare than usual – but it should have been finalised much sooner.
- I've read messages sent between AA and Mr S through AA's portal. On a number of occasions Mr S wasn't replied to promptly, was told an automated message was sent in error, or received messages with dates in the past. Communication with Mr S was sparse and rarely clear about the next steps for the claim or the expected timescale.
- Overall, given the points I've set out above, I'm satisfied £750 compensation is fair and reasonable in the circumstances.

Claim settlement

- The policy says: *"How we will settle your claim ... at our option we will arrange for the work to be carried out or pay the cost of repairing or reinstating the building as new"*.
- I'm satisfied the policy is clear that the choice of how to settle the claim is AA's. However, I must consider whether it would be fair and reasonable for AA to choose to settle the claim by cash payment in the circumstances of this case.
- I would usually expect an insurer to carry out or pay for an effective and lasting repair. In subsidence, that means ensuring the property is stable. Mr S has suggested AA should carry out ground stabilisation work, whereas AA says that's not necessary because the property is stable.
- There are points for and against AA's position, which I'll set out.
- I haven't seen any professional evidence, such as an engineer or surveyor report, to suggest the property is unstable and ground stabilisation is required to provide a lasting and effective solution to the subsidence problem. Whilst Mr S has been in touch with a ground stabilisation company, I haven't seen anything to show why this kind of work would be necessary to resolve the subsidence problem.
- However, nor have I seen any surveyor or engineer reports from AA. So it's not clear how it reached the conclusion that the drains and some of the nearby trees are the likely cause of subsidence. But I agree that *if* these were the cause, then the drain repairs and tree removal would likely lead to stability in time. And no other causes have been identified by a professional.
- Nor is it clear how AA has concluded the property has stabilised. As noted above, I don't think asking Mr S to 'self monitor' the cracks was a reliable and effective way to judge stability. He said he thought the cracking had worsened and AA seemed to agree. Although it said the changes were 'marginal' and 'likely the result of normal building movement', rather than instability, but this hasn't been supported by a

professional report or comments. Nearly a year has passed since then, so even if the property hadn't stabilised at that time, it may well have done so by now.

- Overall, I'm not persuaded there's sufficient evidence to actively show the property is unstable or that other likely causes of subsidence remain. So I don't think it would be fair to require AA to carry out any stabilisation work. There's some evidence to actively show the property is stable, but it isn't as strong as I'd usually expect to see.
- Were AA prepared to carry out and/or take responsibility for the repairs, I may be satisfied it was fair for it to proceed with that work. That would reflect its confidence in stability and, in the event the property was unstable, AA would be responsible for making it stable and carrying out further repairs. But because it's only offering to settle the claim by cash payment, that leaves Mr S at risk of detriment should the property be unstable. I'm not satisfied that treats him fairly.
- AA says it doesn't have any builders available where Mr S lives, so it can't appoint one. AA knew when it insured Mr S where he lived, so it ought to have ensured it had appropriate measures in place to deal with a claim fairly, and that includes access to builders in my view. However, if it doesn't have them available, I can't make it change that position. But AA can the additional costs involved in having one of its builders from a nearby area carry out this work. Or it can appoint and take responsibility for a local builder. And I know Mr S would consider that a fair way to settle the claim.
- Another option is for AA to show the property is stable. Then the risk of detriment to Mr S of settling the claim by cash payment is significantly reduced. To do that, I'd expect AA to appoint a suitably qualified and experienced structural engineer or surveyor to review the evidence, inspect the damage first-hand if they consider it necessary, and carry out some form of objective, accurate monitoring for a reasonable period of time. Then report on whether they consider the property stable or not – and, if not, what should be done to stabilise it.
- However, that's likely to be time-consuming, which would add further delay to the claim. It's also likely to add to the claim cost – which will be unnecessary if the property is indeed stable and/or AA takes responsibility for a builder, confident in its position that the property is already stable.
- Taking all of this into account, I consider the fair way to settle the claim is for AA to appoint and take responsibility for a builder to carry out the building repairs – without ground stabilisation. I understand Mr S is prepared to help by asking local builders to quote for the work, if AA shares with him the scope of repairs. That option is open to AA, as is paying additional costs for one of its builders to do the work. It's up to AA to decide how to take it forward – but it must take responsibility for the builder and the work carried out to ensure a lasting and effective repair of the subsidence problem.

My final decision

I uphold this complaint.

I require AA Underwriting Insurance Company Limited to:

- Pay £750 compensation.
- Appoint and take responsibility for a builder to carry out a lasting and effective repair.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 February 2024.

James Neville
Ombudsman