

## **The complaint**

Mr B and Mrs O complain about Qmetric Group Limited trading as Policy Expert's (Policy Expert) decision to decline a claim for subsidence under their buildings insurance policy.

Any references to Policy Expert include its agents.

## **What happened**

In December 2020, Mr B and Mrs O noticed some cracking in their home. They contacted Policy Expert who sent a surveyor to inspect the damage. The surveyor initially believed the cracking was as a result of the extension that had been built not being fully connected or tied to the main house. Some site investigations were carried out and an arboriculturist was appointed, who recommended the removal of some nearby trees.

Sometime later, after the trees had been removed and the ground had settled, the surveyor reviewed things again. They did so and concluded the cause of the movement was due to the foundations of the extension not being sufficiently deep. The claim was declined, with Policy Expert relying on the poor workmanship exclusion.

Mr B and Mrs O complained. They were unhappy trees had been removed unnecessarily (in their view) and with the decision to decline the claim. They arranged for their own structural engineer to inspect their property and shared this report with Policy Expert. It was considered by Policy Expert's chartered surveyor but didn't alter the claims decision reached. Mr B and Mrs O asked us to look into what had happened.

Their concerns were considered by one of our investigators, but she didn't think Policy Expert had acted unfairly in declining the claim. She said Policy Expert had demonstrated the foundations of the extension were not sufficiently deep to meet recommended guidelines. Mr B and Mrs O didn't agree, so this matter 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.

Having considered the information available, I've reached the same outcome as our investigator did, and I'll set out why. In reaching my decision, while I've carefully considered all the information provided, I've summarised this where appropriate. I hope neither side considers this a discourtesy, but rather a reflection of our informal nature

It's not in dispute Mr B and Mrs O's home is experiencing some movement which has caused damage. I'm sure this is a very worrying experience. However, in order for me to decide Policy Expert had unfairly declined their claim, I'd need to be persuaded the damage to their home was caused by an insured event. With this in mind, I've considered the policy exclusion Policy Expert are relying on when declining this claim, and I've copied this below:

### ***"13. Poor workmanship***

*Loss or damage caused by poor workmanship, use of faulty materials (including latent defects) or poor design..."*

Policy Expert says the expert reports it received, (which aligned with the opinion of its surveyor), indicated the extension had been poorly designed. It said when the extension was built the foundations were not sufficiently deep and also did not take account of nearby trees. There was also a suggestion the extension was not adequately tied to the main house.

I've first considered the reports instructed by Policy Expert. The notes from the surveyor included in the initial report recommended further investigation, which led to the site inspections being carried out. The site inspections included the drilling of boreholes which identified foundations dug to a depth of 380mm. And the arboriculturist report identified a number of trees which could be impacting the property and contributing to the movement. I think it was a reasonable step, in the face of this information, for Policy Expert to arrange for the trees to be removed. It was also appropriate to give the ground time to settle before considering everything again and concluding the claim should be declined. However, I can understand Mr B and Mrs O's disappointment when Policy Expert told them this.

Mr B and Mrs O arranged their own inspection. I've considered the findings set out by the structural engineer they appointed. The report sets out the extension was built by the previous owner and had been standing for more than 10 years before any damage began to appear. It also notes the findings set out in other reports relating to the high-volume change potential of the soil and describes the steps Mr B had taken to redirect rainwater in a bid to reduce the impact on the soil. The engineer appointed by Mr B and Mrs O agreed the depth of the foundations were *"not in accordance with current good practice, nor with minimum... Local Authority Building Regulation requirements."*

Policy Expert then asked a chartered surveyor to review the findings of the reports. His overall conclusion was the foundations at 380mm were not in line with Building Regulations and, when the extension was built, the foundations were not sufficiently deep to take into account the presence of the nearby trees. His overall conclusion was that any movement the property was experiencing was as a result of the *"improperly constructed foundation"*.

I acknowledge it's possible the steps Mr B and Mrs O took to redirect the rainwater might have contributed to a change of the soil's moisture input. I'm also aware their structural engineer said the property seemed to be experiencing subsidence. Mr B and Mrs O also provided me with proof that planning permission had retrospectively been granted for the extension. However, the planning permission documents don't certify that the extension complied with Building Regulations.

My role is to decide if Policy Expert acted unfairly in declining the claim. Having considered all of the available evidence, I don't think it did. As I've set out, the expert reports consistently set out the foundations of the extension were not sufficiently deep. I don't think the fact the extension stood for a number of years is, in itself, a sufficient reason to say the claim should be accepted by Policy Expert. There is clear evidence to support the conclusion reached by Policy Expert the depth of the foundations was not sufficient to comply with Building Regulations or best practice, nor did the depth take into account nearby vegetation.

While I am sorry to disappoint Mr B and Mrs O, the available evidence leads me to conclude the damage to their home is as a result of defective foundations and Policy Expert has acted in line with the policy terms in declining their claim. I'm therefore not going to require Policy Expert to do anything more.

**My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs O to accept or reject my decision before 18 October 2023.

Emma Hawkins  
**Ombudsman**