

The complaint

Mr L1, Mr L2, Mr L3 and Mr L4 complain that American International Group UK Limited ("AIG") declined a claim they made under their commercial property insurance policy.

Mr L1 has been the lead complainant and has also been represented. For simplicity, I'll refer to him only and call him Mr L.

Reference to AIG includes its agents and representatives.

What happened

I'll summarise the main points about this dispute:

- Mr L got in touch with AIG in January 2022 after he noticed a crack on the building. It declined the claim without inspecting the damage. Based on photographs, it said the damage had been caused by subsidence, which wasn't covered by the policy.
- In March 2022, a wall collapsed. Mr L took advice from an engineer who said the damage hadn't been caused by subsidence but was likely the result of a lack of structural support. AIG also took advice which reached the same conclusion. It thought the support was removed by 2005 and the wall had begun to bulge after that, leading to cracking and eventually its collapse.
- AIG maintained the claim should be declined, for a number of reasons:
 - A policy exclusion for damage caused by collapse or cracking of buildings.
 - Another exclusion for damage caused by gradual deterioration.
 - A policy condition requiring Mr L to take precautions to prevent damage and maintain the building in a good state of repair.
 - And to make good any damage as soon as possible after discovery.
 - It also said the damage began prior to the start of the policy in 2020.
 - It noted loss of rent was only covered if the damage giving rise to the loss of rent was itself covered.
- Mr L didn't think AIG had dealt with things fairly. He thought the claim for damage and loss of rent should be covered. He also suggested that if AIG had initially inspected the damage and correctly identified the cause of the problem, the collapse could have been avoided.
- AIG didn't change its position about the claim. And it said the claim had been correctly declined throughout, so it had no responsibility to investigate the cause of the problem further. It also noted it had advised Mr L to take advice from a structural engineer when it initially declined the claim.
- Our investigator didn't think the complaint should be upheld. She said AIG had fairly declined the claim. And whilst she thought AIG should have done more initially, she wasn't persuaded that made a material difference to Mr L.

- Mr L disagreed and made a number of points. In summary:
 - He hadn't been made aware of the problem until August 2021, when he was informed by the local council. So he couldn't have acted earlier.
 - AIG should have inspected the damage initially. Had it done so, and accepted the claim, the collapse could have been avoided.
 - He questioned whether the damage was gradual deterioration, given the wall itself collapsed suddenly.
- Our investigator wasn't persuaded to change her mind, so 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 key points to this claim – the decision to decline it and the way it was handled. I'll deal with each separately.

Claim decline

- The policy covers material damage on an 'all risks' basis. That means all damage is covered unless excluded by a policy term.
- There's no dispute the building suffered damage – a crack initially and then the collapse of a wall. That means the claim is covered unless AIG can show at least one policy term excludes this damage.
- Mr L took advice from a chartered structural engineer. They inspected and said the collapse was caused by a loss of support to the first floor beams and roof purlins.
- AIG appointed a loss adjuster. They inspected and said the collapse was likely caused by inadequate lateral restraint. They noted there used to be a single storey structure next to the wall, but it was removed by 2005. Without that structure – or sufficient strapping to hold the wall in place – the wall became vulnerable and eventually collapsed.
- Both experts broadly agree on the cause of the problem, so I'm satisfied the collapse was likely caused by a lack of support or restraint to the wall.
- AIG has raised a number of policy terms. It only needs to show it would be fair to rely on one of them to decline the claim. I'm satisfied it's achieved that, so I won't comment on every term it raised – I'll focus on those I consider most relevant.
- The policy doesn't cover damage caused by 'collapse or cracking of the buildings'. Clearly that's what happened here. Had that been caused by some external factor – such as subsidence, impact by a vehicle etc – then I may not find it fair to rely on such a broad exclusion. But here the building seems to have collapsed due to a weakness in its structure, so I'm satisfied it would be fair for AIG to rely on this term.
- Nor does the policy cover damage caused by 'gradual deterioration'. Whilst I agree the collapse itself was sudden, the *cause* of it was likely to have been gradual in my

view. The weakness in the structure identified by the experts existed for many years, well over a decade, before the collapse. So it's likely that was gradually undermining the stability of the wall, causing a bulge, a crack and then the collapse. There's no suggestion anything intervened suddenly and recently to cause the collapse.

- I accept Mr L may not have been aware of the weakness in the structure. But a large crack and a bulge were visible for a period of time prior to the collapse. So I think it's fair to say that ought reasonably have suggested a potential problem existed.
- Overall, I'm satisfied it would be fair for AIG to decline the claim by relying on these two policy exclusions. It follows that there's no cover under the policy for loss of rent either, as that only applies where the damage causing the loss of rent is covered.

Claim handling

- When the damage was first reported, AIG said it would send a loss adjuster to inspect it. I think that would have been reasonable and in line with good industry practice for a problem of this nature. However, on the assumption the damage had been caused by subsidence, and because that isn't covered by the policy, it decided not to send the loss adjuster.
- An all risks policy provides a wide range of cover. And the cracking could have been caused in numerous ways, not just by subsidence. So I don't think it was fair to make this assumption and cancel the loss adjuster as a result.
- However, even if AIG had sent the loss adjuster in January, I'm not satisfied that would have made a material difference. I'll explain why.
- It's likely the loss adjuster would have made the same findings in January as they made later. So even with an earlier inspection, it's likely the claim would have been declined for the reasons above. That would have left Mr L in materially the same position he found himself in – he had damage to the building but no cover for it under the policy and had to take steps to deal with it himself.
- I haven't seen anything to suggest that knowing the cause of the problem was a lack of support or restraint, rather than subsidence, would have changed what Mr L did next – or prevented the collapse. So whilst AIG could have handled things better, I don't think it had any tangible impact on Mr L. So I make no award for it.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L, Mr L, Mr L and Mr L to accept or reject my decision before 2 October 2023.

James Neville
Ombudsman