

The complaint

Mrs R complains that The National Farmers' Union Mutual Insurance Society Limited ("NFU") declined her claim on her home insurance policy.

What happened

Mrs R had a home insurance policy that was underwritten by NFU. In April 2022 she made a claim after noticing worsening cracks between a retaining wall and the main property.

NFU inspected the wall and concluded that as it backed onto a public passageway, it was unsafe in its current condition. It therefore reduced the wall to mitigate the chance of it collapsing and causing harm.

It also investigated the cause of the original damage and concluded it was due to a gradually operating cause. It said it was likely to be the vegetation pushing against the retaining wall and the fact the wall had been built inadequately to withstand this pressure. It said as anything that happened gradually is excluded under the policy so it wouldn't cover the claim. However it offered £2,000 towards repairs to the wall as a gesture of goodwill, to assist Mrs R.

Mrs R was unhappy with this as she said NFU had left her in a worse position by reducing the wall and leaving her property exposed. And she didn't think it had done enough to show that the reason for the issue had happened gradually. She made a complaint but NFU didn't uphold it so she brought her complaint to this service.

Our investigator considered the issues and recommended the complaint be upheld. She thought NFU hadn't done enough to show the claim wouldn't be covered and under the policy and should do further investigations to determine the cause, or pay for Mrs R to carry these out using her own expert.

Mrs R accepted our investigator's outcome, however NFU didn't. It said it had instructed a structural engineer who had concluded the damage was likely due to a number of factors but that these would all be gradually operating. And Mrs R had said herself that the wall had been leaning for some time. So it didn't think any further investigation was warranted. NFU asked for the complaint to be reviewed by an ombudsman.

In July 2023 I issue a provisional decision that said:

'Mrs R has an 'all risks' policy. This means that any damage to her property is covered, unless an exclusion applies. And the onus is on NFU to prove that an exclusion does apply if it relies on one to decline a claim.'

Here, it's relied on the general exclusion of 'any cause which happens gradually'. I've considered whether it's done enough to prove that this exclusion would fairly apply.

NFU sent out a loss adjuster to inspect the wall when the claim was first made. And then again once the wall had been reduced. Following the second visit the loss adjuster

concluded as follows:

'Unfortunately, the root structures are not static so their beneficial contribution wanes as they grow and expand against the back of the wall. They appear to now be the primary force pushing the wall towards the road. This has destabilised the wall across its entire length with the most obvious movements and consequences of movement occurring at fragile points (the archway) and against elements that had not moved (against the house). This falls into line with what we observed before the wall was taken down.'

They go on to comment on other possible factors such as traffic from the passage way knocking into the wall and the drain survey that Mrs R provided showing potential problems with the drains. And concede that both of these may be factors in the movement of the wall. So I can see that the loss adjuster's opinion isn't entirely conclusive. There are a number of different factors that may have caused the movement and they concede that any one of those could have been the cause.

However, while this isn't conclusive, I don't think NFU need to decide on the exact cause in order to show that the exclusion applies here. It just needs to show that the damage has happened gradually. And I think it's done enough to show this.

Most of the issues it has said are likely to have caused the damage are gradual causes. So it seems most likely that the damage has occurred gradually. And it concludes that the most likely cause is the vegetation pushing against the wall. From looking at the photos, the lean of the wall in line with the vegetation supports this opinion.

But most persuasively, Mrs R herself has said that she first noticed the leaning of the wall a year before she made the claim. And she's said she made a claim as noticed it had worsened. So the fact that the damage started the year before and worsened over the year leaves little doubt that the cause of the damage must have been gradual. As it appears to have developed over at least a year's timescale.

Based on this, I think NFU has done enough to show the cause of the damage is most likely a gradually operating cause. And therefore I think it's acted fairly by relying on this exclusion to decline the claim. So I don't intend to ask it to do anything further.'

Response to my provisional decision

Neither NFU or Mrs R provided any further comments in response to my provisional decision.

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.

As neither side have provided any further comments, I see no reason to depart from the findings outlined in my provisional decision. After considering all the information again, I remain persuaded that NFU has done enough to prove the cause of the damage was gradually operating, for the reasons given above. I therefore won't ask it to do anything differently.

My final decision

For the reasons given, I don't uphold Mrs R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 26 September 2023.

Sophie Goodyear
Ombudsman