

The complaint

Mr P complains about Fairmead Insurance Limited (Fairmead) who declined his claim under his buildings insurance policy.

What happened

Mr P held a policy with Fairmead which was valid from 16 October 2021 until 15 October 2022. The cover was for a beach hut that Mr P purchased. Following named storms, erosion occurred on the land surrounding Mr P's hut. The district council deemed the area where the hut was located as unsafe and unusable, which meant that Mr P was unable to have the use of the hut.

Further, as there was subsidence, Mr P enquired about making a claim under his policy. Fairmead assessed the information that Mr P had reported and declined the claim, due to the policy terms and conditions. It said that as there hadn't been any direct physical damage caused to Mr P's hut, under the policy there was no cover, as the claim wasn't for an insured peril.

Mr P raised a complaint, but Fairmead maintained its position regarding the claim, that is that it remained declined, as there was no damage to the hut itself.

Mr P referred a complaint to our service. One of our investigators considered the complaint and didn't think it should be upheld. She said that Fairmead declined the claim on the basis that there was no physical damage caused to the hut. It had based this on the policy terms and conditions. And those terms and conditions were clear. So, there was nothing further she could reasonably ask Fairmead to do.

Fairmead accepted the view, Mr P did not. He said that our investigator hadn't fully or correctly considered the evidence that he had provided. That she had interpreted the policy terms and conditions too narrowly and he maintained that there had been damage to his hut. So, he asked for a decision from an ombudsman.

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 done so, I won't uphold this complaint, for much the same reasons as our investigator. I understand that this might be a disappointment to Mr P, but I hope my findings go some way in explaining why I've reached this decision.

I've considered both parties comments, and the evidence they've provided. I think the main issue of this complaint is whether Fairmead was fair to have declined the claim, under the policy terms and conditions.

Mr P has provided me with reports from the district council, photos of the hut and the area surrounding the hut, as well as comments that he wished me to consider. I should say at the outset, that I've reviewed all of the evidence provided.

Both parties have also provided me with the policy documents which I have carefully reviewed. I think the starting point of this complaint is to look at the policy terms and conditions, as well as what Mr P initially reported to Fairmead, when he enquired about making a claim.

From the evidence, Mr P's initial report to Fairmead was that the surrounding area of the hut was collapsing, but there was no physical damage to the hut itself. Consequently, I've next considered the policy terms and conditions to see what was covered.

The policy terms and conditions, which are essentially the agreement between the parties, outlines what is and is not covered. Fairmead's obligations was to provide cover under those terms and conditions. Mr P's obligations (where he wished to make a claim) was to prove that he had a valid claim.

On page three of the terms and conditions it gives definitions of words or phrases that appear in the policy wording. So, the definition of building is:

'Building (s): The property at the risk address shown in the schedule including: • it's fixtures and fittings • solar panels permanently attached to the property which you own or for which you are legally responsible for.'

From this definition I think it's clear that cover is to the building itself.

It goes on to outline what is actually covered on the policy (including any exclusions). On page five of the policy document on the policy cover section relating to buildings it states:

'We will pay for:

The cost of repair or replacement of the building(s) shown in the schedule including any fees, as a result of: 1. direct physical loss or damage arising out of a sudden unforeseen and unexpected event occurring outside your control.

We will not pay for:

- a. more than the sum insured shown in the schedule less the policy excess.*
- b. for any claim under this section where your building has not suffered direct physical loss or damage.'*

I think this term is clear and unambiguous, in that Fairmead has outlined that it will not pay for any claim where the building itself, hasn't suffered from any direct physical loss or damage. I think the key section that relates to Mr P's complaint, is 'b' and that he would need to provide evidence of physical damage to his hut.

I understand that Mr P has relied upon a technical report, but having reviewed that report, as well as the email exchange with the district council, I can't agree that there was mention of any damage to Mr P's hut. I accept that there is mention of erosion to the land and a conclusion that the land was unstable, but this is not evidence of damage to the hut itself. Indeed, having reviewed the photos that Mr P provided; I can't see any physical damage to the hut.

In addition, I've not seen any specific evidence of any physical damage to Mr P's hut incurred during the policy term, nor have I seen that Mr P provided Fairmead with this evidence during the claim. As there is no expert or specialist reports to show that the hut had been damaged (which is what we would expect a consumer to show when making a claim under the policy) I can't agree that Fairmead were unreasonable or unfair to decline the claim under the policy terms and conditions.

I acknowledge Mr P's strength of feeling about this complaint and the reason why he referred it to our service. I understand that my findings are likely to be a disappointment to Mr P. But, in the overall circumstances of this complaint, I haven't seen enough evidence to show that Fairmead acted unfairly. I'm therefore not going to tell it to do anything further here.

My final decision

For the reasons given, 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 P to accept or reject my decision before 13 December 2023.

Ayisha Savage
Ombudsman