

## **The complaint**

Mr and Mrs S have complained that Advantage Insurance Company Limited has unfairly refused to renew their home insurance policy because of a subsidence claim they made in the previous policy year.

## **What happened**

Mr and Mrs S insured their home through Advantage between April 2018 and April 2019. During this policy year they made a claim for damage to their property caused by subsidence. The claim was accepted and settled by Advantage.

On 31 March 2019, Mr and Mrs S' broker informed them that it wasn't able to obtain a renewal quote from any of its panel of insurers – which included Advantage. The broker told them this was likely because of the subsidence claim.

Mr and Mrs S didn't agree this was fair, so they complained. They explained they had been unable to find another insurer who would accept the subsidence risk because of their previous claim, so they'd had to take out a new policy with no cover for subsidence. When their complaint wasn't upheld, they brought it to our service where it was looked at by one of our investigators.

Our investigator highlighted that Advantage was a member of the Association of British Insurers (ABI) and so had, in effect, agreed that it would continue to provide ongoing cover once a subsidence claim had been made.

Advantage explained that the previous subsidence claim was not the reason that it didn't offer a renewal quote. It said during the term of Mr and Mrs S' first policy it purchased additional data about the flood risk in their area. This data showed that their property was in a high-risk flood area – which its underwriting criteria deems to be an uninsurable risk. Advantage said this is why it was no longer able to offer cover.

Our investigator considered this. But she felt that in the particular circumstances of this case, it was unfair of Advantage to refuse to offer cover. This was because Mr and Mrs S would find it difficult and expensive – if not impossible – to find another insurer prepared to cover them for subsidence now that they had made a claim. She recommended that Advantage should offer a renewal, including subsidence cover, from April 2021 (when Mr and Mrs S' current policy expires) and that it should provide a letter confirming it will cover any potential subsidence claims which might arise between now and then. She also recommended Advantage should pay £100 compensation for the distress and inconvenience it had caused Mr and Mrs S.

Advantage didn't accept our investigator's opinion. It said her opinion would effectively force it to offer cover for a risk despite it providing evidence to confirm that the risk is unacceptable.

As no agreement has been able to be reached, the complaint has been passed to me to decide.

## **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've decided to uphold it. I'll explain why.

Each insurer is entitled to decide which risks it wants to cover and which it doesn't. This isn't something our service would usually involve itself in. But as an ombudsman I'm required to consider the particular circumstances of an individual complaint to reach a decision that is fair and reasonable.

Advantage has shown that Mr and Mrs S' property is in a high-risk flood area and that its underwriting guidance deems this to be an uninsurable risk. So, ordinarily, I wouldn't necessarily decide that its decision not to offer a renewal would be unfair or unreasonable. However, in this particular case, I also need to consider the fact that Advantage did accept the risk in the previous policy year, and that during that year Advantage settled a claim Mr and Mrs S made for damage caused by subsidence.

As our investigator pointed out, Advantage is a member of the ABI, and as such it is expected to adhere to the Domestic Subsidence Agreement. Part of this agreement states that where an insurer has dealt with a claim for subsidence previously, it should continue to offer cover. This is because the policyholders are likely to find it difficult, or prohibitively expensive, to find cover elsewhere. Also, as the insurer has carried out the repairs, it should be confident that it has resolved the problem.

I've thought carefully about Advantage's reasons for not offering to renew Mr and Mrs S' policy, and about its requirements under the ABI agreement. While, strictly speaking, I think Advantage has a genuine reason not to want to offer a renewal, I don't think it is fair in the particular circumstances of this complaint. This is because with a previous subsidence claim recorded against them, I think it's very unlikely that Mr and Mrs S will be able to obtain sufficient cover elsewhere.

I'm not persuaded that it is fair for Advantage to act contrary to the ABI agreement for continual subsidence cover in these circumstances. I think Advantage could only do this if the risk it was required to take on (beyond the subsidence risk) was fundamentally unreasonable, for example if the policyholder had made a fraudulent claim.

As I understand it, the risk of flooding at Mr and Mrs S' property hasn't changed since they took out their policy in 2018. It's just that Advantage/the broker has purchased new information about the flood risk which has made Advantage more aware of the existing risk. But, crucially in this case, Advantage did accept the flood risk in 2018 and, because it did, it was the insurer on cover when Mr and Mrs S' property suffered damage as a result of subsidence.

If Advantage had obtained better flood risk information in 2018, it wouldn't have offered cover and Mr and Mrs S would have found an alternative policy elsewhere (which I'm confident they could have done as their current policy covers them for flood). The alternative policy would have responded to the subsidence claim and Mr and Mrs S would then have retained protection for subsidence cover from the alternative insurer under the ABI agreement. So, I don't think it's fair that Mr and Mrs S should lose out on this protection because Advantage accepted a risk in 2018 which it now, effectively, says it shouldn't have.

In the particular circumstances of Mr and Mrs S' complaint, I don't think Advantage's new understanding of the flood risk is enough of a reason for it to act contrary to the ABI agreement. So, I think Advantage should offer Mr and Mrs S a renewal when their current policy expires. And if a subsidence claim should arise between now and then, I think Advantage should cover it – subject to its normal policy terms and conditions, including payment of an appropriate excess.

I've also considered the distress and inconvenience Mr and Mrs S have experienced as a result of Advantage unfairly deciding not to renew their policy in 2019. I think Advantage should pay them £100 to compensate for this.

### **Putting things right**

In order to fairly put things right, Advantage Insurance Company Limited must:

- Adhere to the ABI agreement for continual subsidence cover by renewing Mr and Mrs S' policy from 2021
- Cover any claims for subsidence which might arise between now and when it renews their policy
- Pay Mr and Mrs S £100 compensation

### **My final decision**

My final decision is that I uphold Mr and Mrs S' complaint. Advantage Insurance Company Limited must put things right by doing what I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 26 October 2020.

Adam Golding  
**Ombudsman**