

## **The complaint**

Mr F complains about the way a claim for subsidence on his home insurance policy was handled by Ageas Insurance Limited ("Ageas").

## **What happened**

This complaint was brought by Mr F and Ms F on behalf of a relative, Mr F, who sadly died during the claims process. For simplicity I'll refer to Mr F throughout. The background to this complaint is well known to both parties, and largely not in dispute, so I'll only summarise it here. When I refer to Ageas I include its agents and contractors.

Mr F made a claim in April 2017 as he'd observed cracks in his home.

Site visits were undertaken to establish the cause and Ageas say it established there was damage to drains, consolidation and subsidence.

Ageas covered the cost of repairs to some of the drains under the accidental damage section of the policy. Mr F engaged contractors to carry out works to other drains and, based on the reports from his contractors, feels Ageas should reimburse these costs. But Ageas disagrees and said repairs to these other drains weren't covered as the issues with them were maintenance.

A cash settlement of £18,479.13 was offered by Ageas based on a schedule of works provided by its contractors for work to the house. This figure excluded VAT.

The property was sold in December 2019 before repairs to the house were carried out.

Mr F isn't happy with the offer. Based on a survey he'd commissioned he says a figure of £70,000 is required to complete all the works needed. He also says had all the structural work and repairs been completed he would've sold the property for a considerably higher amount. And says Ageas should pay a cash settlement based on the loss of value, this being £140,000.

Our investigator said it was fair for Ageas to offer a cash settlement under the terms of the policy, and in his view the settlement figure was reasonable. However, he also said Ageas ought to have done more in relation to the drainage costs. And said Ageas should pay £7,710 plus 8% simple interest from the date Ageas declined the claim, less any excess under the accidental damage section of the policy.

Ageas did not accept our investigators view. It said some of the work carried out to the drains was betterment, and therefore Mr F's responsibility, and drains to the rear of the property were not covered as the issues related to maintenance.

Mr F also remained unhappy, he felt Ageas should pay the difference between the sale price achieved and what the value would've been had all the repairs been carried out.

Both parties asked that an ombudsman decide the case.

## 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.

Mr F has made considerable submissions in bringing this complaint. I've considered these and have read everything he's sent in, but I don't intend to respond in similar detail. So, if I don't mention a particular point or piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel the need to reference it to explain my decision. I hope Mr F doesn't take this as a discourtesy, it's just a reflection of the informal nature of our service.

I also appreciate this has been a difficult period, and whilst some time has passed, I'd like to offer my condolences to Mr F's family.

There is some disagreement as to why the claim didn't progress faster. From my review of the file both parties could've helped the claim progress and it reached a point where Mr F sold the property, over 2 years after the claim was first made, which wasn't unreasonable. The repairs hadn't been carried out when the sale went through, but I can't fairly say this was entirely as a result of the way Ageas handled the claim. And I'm not persuaded the decision to sell the property was as a result of the claim not being settled. I've seen in his submission to us Mr F says he had requested a cash settlement.

I've seen a report provided by Mr F from a Chartered Surveyor and it says the value for IHT purposes in March 2018 was £350,000. The report also says based on their knowledge and comparable evidence the value would've been in region of £500,000 if all that was required was modernisation and there were no structural works.

The surveyors visited the property again in November 2019 and said the property had been marketed and a sale achieved at £390,000. It went on to say that from comparable evidence it could be argued the value would be in the region of £530,000 if all that was required was modernisation and no structural works.

Whilst the property may have been sold for less than it would've fetched if repairs had been carried out the issue I have to consider is whether Ageas have acted reasonably. The policy says:

*'How your claim will be settled*

*We will settle your claim by either:*

- *Replacing, repairing or rebuilding items (depending on which will be most cost effective), or*
  - *Paying you their cash equivalent, based on what it would cost us to replace the item(s).*
- We will decide which option is most appropriate.*

*However, they will not pay more than the limit shown in the policy schedule/statement of fact or policy booklet.*

*If your property is only partly damaged, we will pay for it to be repaired as long as the repair is actually done. If you choose not to have the repair done (because you decide you want to replace this item with something else, for example), we will pay for one of the following, whichever is the lowest:*

- *The amount by which the property has gone down in value as a result of the damage, or*
- *The estimated cost of the repair.'*

I find it clear that the policy terms allow a cash settlement and I'm satisfied Mr F had wanted a cash settlement rather than have repairs to the property. And the policy terms are clear that it will only pay the lower of the amount the property has gone down in value or the estimated cost of repairs. The estimated cost of repairs is lower than the estimated loss in value and, in the circumstances of this case, it's unreasonable to expect Ageas to pay more than the repair costs.

I'm satisfied that the schedule of works is comprehensive and covers the works necessary to repair the damage caused by the subsidence to the property. Mr F believes additional works to a conservatory and utility are required. But, on balance I'm not persuaded this is the case. I've seen comments about the age of the conservatory and that it was at the end of its normal lifespan. And whilst Mr F wishes additional works to be included to the house I don't agree, the insurance policy is only intended to repair damage caused by an insured event and not to enhance the property.

Ageas are required to pay repair costs for the damage caused by the subsidence, and whilst they were responsible for some delays before Mr F sold the property, I find it disproportionate to expect it to pay the figures Mr F has quoted based on a higher potential valuation. It didn't have a reasonable opportunity to complete repairs as the extent of the work was still in dispute, and there were periods when Mr F had asked that works were not carried out. A cash settlement is allowed and has been offered which fulfils its obligations in respect of this element of the claim. And Ageas should pay £18,479.13 unless it has done so already.

In respect of the drains I agree with our investigator's conclusion. I'm satisfied the weight of evidence indicates the work carried out by Mr F's contractors was reasonable and covered under the policy. And Ageas should pay £7,710 less any policy excess for accidental damage if it hasn't already done so.

I've explained that whilst Ageas is not solely responsible for the delays, I find it has caused some inconvenience to Mr F, and I've considered if a payment should be made for the distress and inconvenience. However, such payments can only be made to a customer, not a representative and therefore I'm not making an award in this case.

### **My final decision**

For the reasons above I'm upholding this complaint in part and require Ageas Insurance Limited to pay £7,710 less any policy excess for accidental damage if it hasn't already done so. It should also pay 8% simple interest from the date Ageas declined to cover these costs.

If Ageas considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr F how much it's taken off. It should also give Mr F a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F and Ms F and the estate of Mr F to accept or reject my decision before 26 May 2022.

Martyn Tomkins  
**Ombudsman**