

The complaint

P, a sports club, represented by one of its committee members, Mr C, has complained about its property insurer, Allianz Insurance Plc. Mr C said Allianz unfairly declined P's claim for subsidence and removed P's cover.

What happened

P had a building built in 1993. Cover with Allianz began in 2014. This pre-dated Mr C's involvement with the club.

In around 2017 Mr C was reviewing P's financial documents and was concerned that there was no subsidence cover on P's insurance policy. He looked to amend this and in 2018 he was alerted to some cracks. Allianz was notified, Mr C organised a structural survey and just prior to renewal in 2019 it transpired that subsidence might be occurring and a claim to Allianz was made. Allianz investigated the claim, felt the damage likely pre-existed its cover and declined it. When the policy came due for renewal in 2020 – and whilst Mr C was challenging Allianz's decision, it said it wouldn't offer renewal because of the pre-existing damage.

When Mr C complained to us our investigator upheld the complaint. She felt Allianz should reinstate P's cover and deal with the subsidence claim.

Mr C indicated that he agreed with the findings. Allianz objected to them. It said it felt it was entitled not to offer renewal due to the damage. And in respect of the claim it maintained it had shown the damage was pre-existing and explained that this claim doesn't fit within the industry agreement that exists about when damage is found. It said its policy was based upon when damage occurs, and the industry agreement is for residential policies, not commercial ones like this. The complaint was passed for an ombudsman's consideration.

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.

I think Allianz should be dealing with this claim as well as reinstating the policy. I'll explain.

I appreciate that, at times, Mr C has been a little unclear about the timescales for this damage. I think that is reasonable given the nature of his role and the periods in question. And I accept he did indicate that shortly after the building was erected in 1993 some cracking was found. But I'm not persuaded that Allianz has shown that this anecdotal detail means the current damage, identified by Mr C around 25 years later, has most likely been on-going all that time – or even since before cover with it began in 2014. There is no sign, for example, of previous repairs to cracks that have opened up again.

I understand that the nature of the site – clay soil with large trees in the vicinity – along with the fact that foundations for the new building were fairly shallow, might mean the building was always potentially at risk of damage. It is possible that it has, as Allianz thinks, been

moving to some extent during the whole course of its life. But that doesn't mean that damage has been occurring throughout all that time. It may have been, but Allianz hasn't shown it most likely was.

Our investigator felt that, in any event, it would be fair and reasonable, given that it seems that damage has been occurring during the period of cover with Allianz, that Allianz should deal with the claim. I know Allianz thinks it shouldn't have to as that method for dealing with subsidence damage comes from an industry agreement that only applies to residential policies. But that agreement has been in place for some time and this service has long held that it is often fair to apply the ethos of that agreement even to non-residential covers. That's because the idea behind the agreement sits at the heart of not only this service's fair and reasonable remit, but also of the overriding duty of the insurer to treat customers fairly. In essence that damage has occurred, which is covered by a policy in place and that an unsophisticated policyholder shouldn't be caught between two insurers, trying to evidence when and to what extent damage occurred. Nothing Allianz has said makes me think it would be unfair or unreasonable for me to make it deal with this claim.

I know Allianz only chose to opt out of covering P in 2020. But this service has also long held that an insurer, when a subsidence claim is on-going, shouldn't refuse to continue cover. That is because it is most likely that, in that situation, the claimant won't be able to find alternate cover (due to the on-going and unresolved nature of the subsidence and claim). That is unless some other bar to it offering cover arises. Here Allianz has confirmed that it was the subsidence damage that made it take the decision not to offer further cover. In the circumstances I think that was unfair. Cover, in my view should be reinstated to date – but P should be aware that, if it is, that will generate a need for it to pay backdated premiums.

Putting things right

I require Allianz, (if P wants it to) to reinstate the policy to date and (irrespective of the reinstatement) deal with the subsidence claim in line with the remaining terms of the policy.

My final decision

I uphold this complaint. I require Allianz Insurance Plc to provide the redress set out above at *"putting things right"*.

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

Fiona Robinson
Ombudsman