

The complaint

Mr and Mrs S complain that Ageas Insurance Limited failed to identify subsidence at their property when they made a claim on an insurance policy with it.

What happened

Mr and Mrs S had an insurance policy with Ageas for a property they owned and rented out. They had the policy up until March 2020 when they moved to a new insurer.

In September 2019 they'd raised a claim for subsidence with Ageas after their tenant noticed cracks at the property. Ageas sent a loss adjuster to inspect the damage and they concluded the damage was due to the natural breakdown of materials rather than subsidence. So the claim was repudiated.

In January 2021 Mr and Mrs S made a claim with their new insurer as more cracks had appeared. On investigation, the insurer confirmed the damage was caused by subsidence, however it said the problem had started before the inception of the policy so it would be the responsibility of the previous insurer – Ageas.

It contacted Ageas who said under the Association of British Insurers (ABI) domestic subsidence agreement the new insurer should deal with the claim and then it would look to share the cost of the claim once it's settled.

However the two insurers couldn't reach an agreement so Mr and Mrs S made complaints to both and brought these to this service.

Our investigator recommended the complaint against Ageas be upheld. She said as the cracks were in the same area of the property as those investigated as part of the 2019 claim, it's reasonable to conclude that they are linked. And the new insurer's report confirmed the damage had been caused by subsidence. She therefore thought there was enough evidence to suggest that the subsidence hadn't been identified originally by Ageas and it was related to the original claim.

She said Ageas should accept the claim and pay Mr and Mrs S £300 compensation to make up for the distress and inconvenience it had caused by not identifying the subsidence earlier. She also thought Ageas should offer ongoing insurance cover, as it would have done if it had dealt with a subsidence claim in 2019.

Ageas didn't agree. It said there was no evidence of subsidence when its loss adjuster investigated in 2019, so it didn't agree it was responsible for the whole claim.

As an agreement hasn't been reached, the complaint has come 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.

The crux of this complaint comes down to whether the subsidence that has now been confirmed by Mr and Mrs S' new insurer, is related to the claim they made with Ageas in 2019.

I've looked at the reports provided by Ageas and the new insurer's loss adjuster. I can see the damage that has now been identified as subsidence is in the same area as the problem inspected by Ageas in 2019 – largely in the kitchen extension.

The report provided by Ageas is very limited and just states that the cause is 'Natural breakdown of material' but provides no detail about any investigations it carried out or how it reached this conclusion.

Mr and Mrs S' new insurer's report is much more detailed, providing images and description of each area of cracking and comment on the possible cause of the subsidence.

Based on this, I think it's most likely the subsidence that has now been identified was the cause of the original damage Mr and Mrs S claimed for in 2019. As it is in the same location and it appears Ageas didn't carry out a thorough investigation at the time into the cause.

In fact, I'd go as far to say that it seems highly *unlikely* that cracks identified in the same area would be un-subsidence related in 2019, but subsidence related in 2021. So I think it most likely that Ageas mis-diagnosed the problem initially.

For this reason, I agree with our investigator that Ageas should accept full responsibility for the claim and settle it in line with the policy terms.

I note Ageas has said that it is only required to pay 50% of costs, and that the new insurer should manage the claim under the ABI agreement. However as I'm persuaded that the subsidence relates to a claim that had previously been made against the Ageas policy, I think it's fair and reasonable that this is dealt with as a continuation of that claim. And that it now accepts full responsibility for the claim, as it should have done previously.

The fact that the problem wasn't identified in the first visit has caused Mr and Mrs S some distress and inconvenience. As they've had to continue to receive reports from their tenant about the worsening condition of the property. And have had to raise a further claim which shouldn't have been necessary if it had been picked up originally. For that reason, I agree with our investigator's recommendation that Ageas should pay Mr and Mrs S £300 compensation.

Finally, as Ageas will now be dealing with the subsidence claim it's reasonable that it offers Mr and Mrs S ongoing subsidence insurance cover, as we would expect if it had originally accepted the claim.

My final decision

For the reasons I've given, I uphold Mr and Mrs S' complaint. I require Ageas Insurance Limited to:

- Accept Mr and Mrs S' claim for subsidence and settle it in line with the policy terms and conditions.
- Pay Mr and Mrs S £300 compensation.
- Offer Mr and Mrs S ongoing subsidence insurance cover.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 22 April 2022.

Sophie Goodyear
Ombudsman