

The complaint

Mr and Mrs C complain about HDI Global Specialty SE's decision to decline their buildings insurance claim.

All references to HDI also include its appointed agents.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my decision.

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 agree with the conclusions reached by the investigator for these reasons:

- The policy doesn't cover any loss or damage arising from defective design, defective materials or faulty workmanship.
- HDI confirmed the foundations of the conservatory were 690mm but relevant building regulations recommend a minimum depth of 750mm. And therefore, it declined the claim based on the above exclusion.
- Although building regulations don't apply to all conservatories, this does provide a guide to the depths that need to be considered to keep the structure stable.
- However, I also consider the extension stood for around 20 years without any issues. And considering this along with the difference in between the two depths, I think it broadly complies with the regulations. I also think I think it's more likely than not, if there were issues with the foundations, they would have presented themselves sooner.
- The conservatory wasn't built to the same depth as the main building, but I've not seen anything that persuades me it had to be. And HDI have not pointed to anything specific that shows this was a requirement.
- The information available supports that roots found at a depth of 2,500mm are the cause of the damage. So, I also consider had the depths been the same as the main property, it's more likely than not the damage would still have occurred.
- HDI has also referenced guidance from a provider of building warranties. The policy doesn't set out any requirement to adhere to these standards. And HDI have not provided anything that persuades me the conservatory was subject to them when it was built. So, I don't think this guidance is relevant here.
- So for the reasons I've set out above I uphold Mr and Mrs C's complaint. I don't think HDI have applied the exclusion fairly. It should now consider the claim under the remaining terms and conditions of the policy.

My final decision

My final decision is that I uphold Mr and Mrs C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C to accept or reject my decision before 28 September 2022.

Michael Baronti
Ombudsman