

## **The complaint**

Mr and Mrs D are unhappy with Fairmead Insurance Limited because it hasn't provided them with a home insurance policy.

Mr D has primarily dealt with the claim and complaint. So, for simplicity, I'll refer to him only. Reference to Fairmead includes its agents and representatives.

## **What happened**

The circumstances of this complaint aren't in dispute, so I'll summarise the main points:

- Mr D got in touch with Fairmead in 2021 about damage at his home. Fairmead said the damage had been caused by subsidence and accepted it was covered by the policy. It began dealing with the claim.
- The policy was due to expire in March 2022. Fairmead offered to renew it. Mr D was unwell and in hospital at the time. When he recovered, he asked to accept the offer, but he was told the opportunity to do so had elapsed. And as he had an ongoing subsidence claim, he couldn't be offered a policy as a new customer.
- Our investigator thought Fairmead had acted unfairly. She said industry guidance encouraged insurers to offer continuous cover for customers with subsidence claims. And that it was only Mr D's hospitalisation that prevented him from accepting the renewal invitation sooner. She recommended Fairmead offer continued cover and pay £200 compensation for the worry caused to Mr D.
- Mr D accepted our investigator's recommendations. Fairmead didn't. It made a number of points, but I'll summarise those most relevant to the dispute:
  - It wouldn't be reasonable to expect an insurer to honour a price quoted long ago as it may no longer reflect the risk. And in extreme circumstances, it could endanger the solvency of an insurer.
  - Mr D had chosen not to renew the policy.
  - Anything could have happened since the policy expired. Mr D could have taken a policy out elsewhere and become unhappy with that insurer. He could have had another policy voided – or he could have chosen to go without cover and only got back in touch because he needed to make a claim.
  - How long might insurers be expected to provide cover retrospectively?
  - It's egregious to ask Fairmead to pay £200 compensation. It acted fairly and isn't responsible for Mr D failing to renew the policy in time.

## **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.

- Once a property has suffered subsidence, it's usually significantly more difficult to insure on normal terms. Generally, consumers are likely to find insurers don't offer cover at all. Or, if they do, only at a considerably increased premium and/or excess. As a result, it can be very difficult for consumers in these circumstances to find home insurance which provides subsidence cover at an affordable price.
- That's why there's guidance to insurers within the home insurance industry about this. In summary, if an insurer deals with a subsidence claim for a policyholder, the guidance says it's good practice for the insurer to offer continuous home insurance, including subsidence cover, on reasonable terms.
- The guidance is clear that it would be good practice to work with the policyholder to maintain cover wherever possible.
- I understand Fairmead sent a renewal invitation in early February 2022. I'm satisfied that was in line with the guidance and represented good industry practice. The policy lapsed in March, after the renewal date had passed without a response from Mr D.
- In late April, Mr D asked to accept the invitation. Fairmead considered whether it would offer cover to him as if he was a new customer – but the ongoing subsidence claim meant he fell outside of its usual underwriting criteria.
- Mr D has explained that around the time of the renewal he was hospitalised twice, following two separate injuries as a result of a medical condition he has. Far from 'choosing' not to renew, as Fairmead has suggested, I think it's fair to say Mr D was unable to do so. He got in touch with Fairmead as soon as he was able and within two months of the policy expiring. I don't find that unreasonable in the circumstances.
- The guidance notes insurers can't guarantee to maintain cover in all circumstances, although it doesn't give any specific examples. However, it says even in 'problem cases', cover should be provided wherever possible. In my view, this means insurers should offer cover unless they can present a compelling reason not to. Generally, I think a compelling reason is one that would place the risk significantly outside of the insurer's usual underwriting criteria – but not in relation to subsidence, as that's what the industry guidance is seeking to remedy.
- In this case, Fairmead offered to maintain cover. So it was clearly prepared to insure the risk presented by Mr D and his property. And apart from Mr D's property suffering subsidence, it's offered no other barrier to providing cover.
- Fairmead has raised a number of hypothetical points about what *might* have happened in this case – or which *might* happen in others. But it hasn't said any of these things *did* happen here, so I don't think these hypothetical points are relevant to this decision, which is limited to the particular circumstances of Mr D's case. Any other case would be decided on its own merits, bearing in mind the good industry practice outlined above and the general requirement on insurers to treat policyholders fairly and reasonably.
- I bear in mind that the spirit of the industry guidance is to seek to maintain cover where possible. Mr D was unable to renew the policy at the time, but got in touch with Fairmead as soon as he could. And if Fairmead doesn't offer to renew, Mr D is unlikely to find another policy on reasonable terms and that could lead to significant detriment. Taking all of this into account, I'm not satisfied Fairmead treated him fairly when it refused to renew the policy.

- I accept Fairmead wouldn't offer cover to a *new* customer with a history of subsidence at their property. And I think that's a commercial underwriting decision Fairmead is entitled to make. But in my view, it's unfair to treat Mr D as a new customer in the circumstances.
- To put things right, Fairmead should offer continued cover to Mr D, including subsidence cover, on reasonable terms. Fairmead said it would be unfair, and potentially put insurers at risk, to honour a price quoted long ago. But our investigator didn't specify that the original quote must be honoured. Whilst the option to offer the same terms as it did before is open to Fairmead, that was nearly a year ago and things may have changed since then. So I'm satisfied it would be reasonable for Fairmead to offer new terms if it wishes. But it must treat Mr D fairly when offering continued cover by calculating the premium and other terms according to general underwriting guidelines and offering reasonable terms in line with good industry practice.
- I'm also satisfied Fairmead should pay compensation to Mr D. Fairmead said it would be egregious to do so as it wasn't responsible for Mr D failing to renew the policy in time. But that's not why our investigator asked Fairmead to pay compensation. She said it was for the worry caused to Mr D for not having a policy in place. I agree, it's clear Mr D has been concerned not to have home insurance. The initial gap in cover is an unfortunate consequence of Mr D's hospitalisation, so I don't hold that against Fairmead. But if Fairmead had acted fairly when Mr D asked to accept its renewal offer in late April, that would have saved him many months of worry. I'm satisfied a payment of £200 is reasonable compensation for that.

### **My final decision**

I uphold this complaint. I require Fairmead Insurance Limited to:

- Offer continued cover, including subsidence cover, on reasonable terms.
- Pay £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs D to accept or reject my decision before 28 February 2023.

James Neville  
**Ombudsman**