

## **The complaint**

Mr and Mrs M are unhappy with HDI Global Specialty SE regarding the handling and settlement of their rental property building insurance claim.

Any experts or representatives used during the claim process by HDI will be referred to as HDI for ease.

## **What happened**

Mr and Mrs M own a property that they rent out to tenants. The tenant contacted Mr and Mrs M to let them know that they had noticed cracks to the external walls of the building. They in turn advised HDI who appointed its experts to review the damage.

HDI reported back that vegetation (trees) needed to be removed as this was affecting the soil and therefore the foundations of the building. HDI said the policy doesn't cover the tree removal or associated costs only the repairs. It also said Mr and Mrs M had to take action to minimise any further loss.

Mr and Mrs M didn't accept this. They said these costs should be covered as they would be by other similar policies on the market. As HDI wouldn't agree Mr and Mrs M brought their complaint to this service.

Our investigator upheld the complaint. They said HDI was responsible and should pay for all the work regarding the vegetation (that is causing the subsidence) so the property could be repaired. In view of the distress and inconvenience HDI had caused Mr and Mrs M our investigator also said it should pay £250 as compensation for this.

HDI didn't accept this and asked for the complaint to be passed to an ombudsman for a final 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.

HDI's expert report said:

*“cause of damage*

*Based on the information detailed above, we are of the opinion that damage has occurred due to clay shrinkage subsidence. This has been caused by moisture extraction by roots altering the moisture content of the clay subsoil, resulting in volume changes, which in turn have affected the foundations.”*

So, it isn't in dispute that the vegetation is the cause of the subsidence.

The arboricultural assessment report recommended “a practical vegetation management specification”. It said:

*“This specification will assist in reducing the impact of the adjacent vegetation on soil moisture levels, thereby potentially stabilising foundations of the affected area of the building.*

*Where felling has been proposed, this will be on the basis that the vegetation in question would not respond well to a severe reduction in leaf area that would inevitably lead to decay, the development of potential hazards, and an annual or other on-going management commitment and cost.*

*If pruning is recommended, the specification will be designed to allow continual ease of re-pruning with a reasonable prospect of a reduction in soil water use.”*

Within its final response letter HDI said:

*“Your policy covers the cost of repairing the damage to the property as a result of the subsidence movement. It does not extend to mitigating the cause of the subsidence, in this case the cause of the damage has been identified as the large deciduous tree within your rear garden.”* The letter also says: *“in this instance the removal of the tree is possible”*.

HDI says it doesn't have to pay for the vegetation removal. In response to this Mr and Mrs M say standard home insurance policies would normally pay these costs and paying for the removal of the tree wouldn't be excluded.

I think if HDI could show evidence of making it clear to Mr and Mrs M when they bought the policy that it would act differently to other insurance providers in the market then I'd have to consider whether HDI has to pay. However, I've not seen evidence of either a suitable exclusion or details that show Mr and Mrs M were made aware that they were purchasing limited cover compared to a standard policy.

Even if HDI had a specific exclusion in the policy and was able to clearly show that it made Mr and Mrs M aware that they were purchasing limited subsidence cover I'd still have to consider if the offer made in settlement of this claim was fair and reasonable. But I'm not convinced leaving Mr and Mrs M with the bill to deal with the vegetation removal would be reasonable as it's accepted as the reason for the claim.

HDI say the cost of removing the tree isn't damage its mitigation. So, it says it doesn't have to pay. HDI state Mr and Mrs M must remove the tree to minimise the loss and mitigate the damage. HDI conclude it isn't standard to pay for tree removal. It says, *“some Insurers make the commercial decision to cover the cost of tree removal as part of a claim.”*

This service sees quite a few subsidence cases. Based on the cases I've seen I don't agree with HDI - insurers normally pay for the removal of the trees and vegetation. I don't think it is only *“some insurers”*, I think it is standard in the insurance market. So, I don't think HDI have said to Mr and Mrs M when they bought their policy that it won't pay for claims damage that other insurers would. I think it is accepted best practice in the market for insurers to deal with such claims. I think that's fair and reasonable.

The usual approach of this service in such claim situations is to say HDI need to undertake an effective and lasting repair. To do that it needs to start by making sure the cause of the damage (the trees and vegetation) have been removed as part of the claim settlement. When that has been concluded HDI can then move on to the claim parts it has already agreed to - repairing the subsidence damage to the property.

In fairness Mr and Mrs M would prefer for HDI to underpin their property as a resolution to the subsidence damage. Based on the evidence provided by Mr and Mrs H I'm not convinced it's necessary in this case. On this HDI said *"We will not be making any recommendations to fund the cost of underpinning or the installation of a root barrier as we do not feel this is in the best interests of the property going forward and the removal of the cause of the damage is the most appropriate mitigation technique."* I think this is fair comment based on the evidence.

I think a fair outcome here would be for HDI to cover the costs of all the necessary vegetation removal to stabilise the property. And then HDI should pay for the repairs to the property. HDI knows the cause of the subsidence and it needs to pay to remove that cause.

There's no doubt that this has been stressful for Mr and Mrs M. They've pointed out that they would expect their policy to pay for the vegetation removal and I agree with them. HDI has caused them further stress and inconvenience beyond what you would normally expect following a claim. I think HDI should pay £250 for this.

### **Putting things right**

- Pay for the removal of vegetation and trees linked to the cause of the subsidence damage.
- Pay for the repair work required to the property.
- Pay £250 for the distress and inconvenience caused.

### **My final decision**

I uphold this complaint.

I require HDI Global Specialty SE to:

- Pay for the removal of vegetation and trees linked to the cause of the subsidence damage.
- Pay for the repair work required to the property.
- Pay £250 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs and Mr M to accept or reject my decision before 25 May 2023.

John Quinlan  
**Ombudsman**