

The complaint

Mr H and Ms B complain about how China Taiping Insurance (UK) Co Ltd has handled a claim for subsidence on their buildings insurance policy. They also complain that subsidence cover has been removed from their policy following the claim.

What happened

In 2019, Mr H and Ms B claimed on their policy with China Taiping for subsidence after they noticed damage to their property. China Taiping reviewed the claim, accepted it and carried out monitoring on the property. It was discovered the cause of the subsidence was tree roots and clay soil. The tree was subsequently removed and both parties agree this appeared to stabilise the property.

China Taiping therefore assessed what repairs were needed to the property. It said the damage was mainly cosmetic and could be repaired without the need of structural repairs to the front bay window. Mr H and Ms B disagreed and complained. They said the front bay window would need structural repairs and asked for China Taiping to pay for a chartered building surveyor to assess what work was required. Mr H and Ms B also said China Taiping had removed the subsidence cover from their policy when it renewed and complained about this.

China Taiping reviewed the complaint and didn't uphold it. It said its loss adjuster had reviewed the claim and was satisfied no structural repairs were needed. It also said it was a commercial decision to remove the subsidence cover as it no longer wished to provide it for Mr H and Ms B. Mr H and Ms B didn't agree with China Taiping's response and referred the complaint here.

I issued a provisional decision on this complaint on 8 September 2023 where I said:

"It's not in dispute that Mr H and Ms B have a valid claim for subsidence on their property. I can see that China Taiping has assessed the damage and feels that no structural work is needed as the property is no longer moving.

The terms and conditions of Mr H and Ms B's policy say under the section which covers subsidence claims:

"12. Debris Removal and Building Fees

If there has been damage which is covered under Section 1

We will pay for the following

(a) the cost of removal of debris

(b) architects', surveyors', consulting engineers', legal and other fees which You have to pay to reinstate the Building but not for preparing any claim"

China Taiping has assessed the damage to Mr H and Ms B's property and paid for the costs it incurred which are associated with the claim. I can see that when China Taiping's loss

adjuster was discussing what repair work would be completed, Mr H and Ms B disagreed and complained. They asked for China Taiping to pay for a chartered building surveyor, which China Taiping refused to do.

I can understand Mr H and Ms B would like to appoint their own surveyor to assess the claim. However, I'm not persuaded China Taiping has done anything wrong by declining to cover the cost when Mr H and Ms B asked for this in April 2022. I say this because at the point Mr H and Ms B complained, China Taiping had accepted the claim, assessed it and was putting together what repairs were needed. So, I'm not persuaded China Taiping acted unreasonably at the time by refusing to pay for Mr H and Ms B to appoint their own surveyor at that point in the claim.

I can also see that Mr H and Ms B have obtained two tenders to repair the damage, however, these were both produced after they complained to China Taiping. While I can see these list the work Mr H and Ms B would like completed, I'm not going to comment on them further in this decision. This is because they were produced after Mr H and Ms B complained to China Taiping, and after it issued its final response letter. As those tenders weren't part of this complaint when it was raised with China Taiping it's not something I will comment on in this decision, as China Taiping hasn't had the opportunity to comment on them first.

I can see though that Mr H and Ms B complained about China Taiping removing their subsidence cover. China Taiping said this is down to an underwriting decision. In particular it's referred to the clay composition of the soil around Mr H and Ms B's property. I can understand China Taiping's concerns, however I'm also aware that it is signed up to the ABI's guidance on continuation of cover following a subsidence claim.

The ABI's guidance on continuation of cover following a subsidence claim says the insurer handling the claim should continue to provide cover on the property after the repair has been completed. There are certain exceptions to this where an insurer is able to remove cover following a claim. I asked China Taiping where within the ABI's guidance it said it could remove subsidence cover and it replied citing the guidance when the insurer changes. In Mr H and Ms B's case their insurer hasn't changed so it's not clear why China Taiping referred to that guidance. However even if I agreed it was okay to remove cover, it would be fair and reasonable for China Taiping to either arrange cover for Mr H and Ms B with another insurer or pay the difference between Mr H and Ms B's existing cover and that provided by another insurer. China Taiping hasn't done either of these. It therefore follows that I'm not persuaded China Taiping has acted fairly or reasonably when removing subsidence cover for Mr H and Ms B moving forward.

I've therefore looked at what it needs to do to put this right. As China Taiping hasn't shown it can't practically continue to provide cover, I think the fair and reasonable outcome would be for it to reinstate Mr H and Ms B's subsidence cover. It should continue to provide this, in line with the ABI guidance on continuation of cover following a subsidence claim, until Mr H and Ms B decide to no longer insure their property with China Taiping.

I've also considered the impact on Mr H and Ms B by China Taiping unfairly removing this cover and not putting other arrangements in place. Mr H and Ms B have clearly been very worried and concerned about not having cover, particularly when their existing claim hasn't been resolved. To compensate them for this unnecessary distress and inconvenience since the cover was removed, February 2020, it should pay them £250."

China Taiping didn't respond to my provisional decision by the date requested. Mr H and Ms B responded and highlighted the significant impact which could result from the removal of subsidence cover. They also questioned a reference I'd made to rebuilding the front bay

window and questioned whether this service was able to consider what repairs were needed under this complaint.

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've considered Mr H and Ms B's response to my provisional decision, but I'm not persuaded to depart from my previous finding. I'll explain why.

In regard to the removal of subsidence cover, I understand the significant impact this can have on a property and its value, as Mr H and Ms B have pointed out. While I appreciate the concerns Mr H and Ms B have raised, I'm not able to make an award for what could have happened. And so, in this decision I'm directing China Taiping to reinstate the subsidence cover and made an award for the unnecessary distress and inconvenience caused. For the reasons explained above and in my provisional decision, I'm satisfied this is the fair and reasonable outcome in this complaint.

I've also noted Mr H and Ms B's comments about my referral to rebuilding the front bay window. I would like to apologise for saying Mr H and Ms B said the front bay window needed rebuilding. I can see they've always said it needed structural repairs.

I've also considered Mr H and Ms B's comments about the repairs needed. While I can see Mr H and Ms B have provided a document which shows what repairs they think are needed, the tenders for the work weren't produced until after this complaint was made. For the reasons explained above and in my provisional decision, I'm unable to comment in this decision on those tenders for repair, as these weren't obtained until after this complaint was made.

My final decision

For the reasons explained above and in my provisional decision, my final decision is that I uphold this complaint. I require China Taiping Insurance (UK) Co Ltd:

1. Reinstate subsidence cover on Mr H and Ms B's policy until they decide to no longer insure with China Taiping Insurance (UK) Co Ltd, in line with the ABI guidance on continuation of cover following a subsidence claim
2. Pay Mr H and Ms B £250 for distress and inconvenience

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr H to accept or reject my decision before 3 November 2023.

Alex Newman
Ombudsman