

The complaint

Mr I complains about the settlement offered by Ageas Insurance Limited on a subsidence claim on his property insurance policy.

Reference to Ageas includes its agents.

What happened

Mr I held a property insurance policy with Ageas. Mr I purchased the property knowing there was an ongoing subsidence claim. And Ageas were also aware of the ongoing claim at the point Mr I purchased the property and the insurance policy. Part of the claim - the interior decorations – was cash settled by the previous owner.

It's widely accepted the property suffered from damage caused by subsidence. And it's widely accepted Mr I has a valid claim. What's in dispute is what needed to be done to settle that claim.

Mr I, through his representatives (which for ease of reading I'll refer to as simply, Mr I in most instances), says the bay window of the property needed to be rebuilt. Ageas on the other hand didn't think a rebuild of the bay was needed. It thought effective and lasting repairs could be carried out to the bay window.

Ultimately, Mr I paid for the bay window to be rebuilt. But Ageas didn't agree to pay for it all. It offered Mr I £7,617.75. It said this represented the cost of the repairs it would have authorised to be carried out.

Unhappy, Mr I brought his complaint to us.

Our investigator recommended it be upheld. She thought based on the evidence, the bay window needed rebuilding. So, she recommended Ageas pay Mr I what it would have cost Ageas to carry out the rebuild.

Ageas didn't agree and asked for an ombudsman, it maintained a rebuild of the bay wasn't needed.

I issued a provisional decision which said I was thinking of upholding the complaint. It said:

- *Much of what's happened during this claim isn't in dispute. It's accepted there was subsidence, that it caused damage to the property and that Mr I's policy covers him for damage caused by subsidence. It's also accepted that the contents and decorations aspect of the claim was settled in cash with the previous homeowner.*
- *Our investigator also didn't think there had been any unreasonable delays in progressing or deciding how to settle the claim. And both parties agreed to this – so I'm not going to make further comment on that aspect of the complaint.*
- *So, all that remains in dispute is what needs to be done to settle the claim – so that's*

what this decision will focus on.

- *Mr I says the bay window needed rebuilding – and ultimately this is what he paid to have done. He says Ageas originally drew up a schedule of works (SOW) for a complete rebuild, so thinks it also thought a rebuild was needed.*
- *Ageas doesn't think a full rebuild is needed. It says there is pre-existing damage to the bay which isn't caused by subsidence.*
- *Based on the evidence provided, I'm more persuaded that a rebuild of the bay was necessary. Ageas was given three options to settle the claim by its loss adjuster. Those options were:*
 - *Pay for the cost of repair only. It said this would strictly be the extent of Ageas's liability, but that it would be difficult because Mr I would struggle to get a contractor to guarantee the work.*
 - *Pay for the rebuild of the bay. It said this was ideal from an engineering point of view, but could be considered betterment, and beyond Ageas's liability on the claim. But it said it could be argued this was 'enforced betterment'.*
 - *Come to an agreement with Mr I to agree a contribution to the rebuild.*
- *Ultimately Ageas chose the first option. But, based on the evidence, I'm more persuaded the second option is the fairer option in this case.*
- *I appreciate there are other issues with the bay, and not all of these are caused by subsidence. But, if the subsidence damage in itself warrants a rebuild of the bay, then I think that's what Ageas needed to do.*
- *Ageas need to carry out an effective and lasting repair. And based on the evidence, I'm not persuaded restitching the bay, as it proposed, would have achieved that. This is because:*
 - *Mr I's contractor explained why they didn't think restitching would hold on the current bricks and mortar – and they explained that removing/replacing some bricks and mortar risked destabilising the bay causing it to collapse. Ageas hasn't really provided a detailed response to this other than it disagrees.*
 - *Ageas's loss adjuster acknowledges it would be difficult to get any contractor to guarantee the restitching work – which suggests it wouldn't be a lasting and effective repair.*
 - *Further, they note that previous attempts have been made to strap the bay and have subsequently corroded. Further suggesting that the proposed repair would not be lasting and effecting.*
 - *Ageas's loss adjuster explains the state of the masonry and that overall, rebuild should be considered. And noted this was the ideal engineering solution – suggesting it would be a lasting and effective solution.*
 - *Further, while other damage is noted, it's not clearly noted that it is this damage, and not the damage caused by the subsidence that means a rebuild is needed. It says the majority of the problems have arisen because of the age of the building. But it doesn't clearly state that were it not for the*

subsidence, these issues would mean the bay needed rebuilding.

- *Whereas Mr I's contractor says the opposite, clearly stating that the subsidence is the main cause of the damage.*
- *In summary, I'm more persuaded that a rebuild of the bay was the fair, effective and lasting solution to the damage caused by subsidence. I acknowledge there was existing damage to the bay, not caused by the subsidence. But I'm not persuaded that it was this damage, and not the subsidence damage that warranted a rebuild of the bay.*
- *Ageas always had the option to rebuild the bay, it chose not to. And while I can see why it did this (but ultimately don't agree it was the fair response), Mr I paid for and undertook the rebuild himself. Had Ageas chosen to carry out the rebuild, it would have had much better control of the costs. But it didn't, so the loss to Mr I, is what it cost him. So, to put things right Ageas need to pay Mr I what it cost him to rebuild the bay (excluding anything that could reasonably have been considered settled as part of the previous owners claim).*

I said that without further arguments or evidence I'd require Ageas to:

- *Pay Mr I what it cost him to rebuild the bay window.*
 - *Ageas is entitled to deduct anything it's already paid to Mr I as part of this claim from this payment.*
 - *Ageas also need not pay anything that could reasonably be considered cash settled with the previous policyholder and homeowner.*
 - *8% simple interest should be added to this payment. Interest should be calculated from the date Mr I paid for the work, to the date Ageas pays him.*

Mr I agreed with my provisional decision, Ageas didn't respond.

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, because I've received no new arguments or evidence to consider after sending my provisional decision, I see no reason to depart from its findings or reasoning.

My final decision reflects that set out above in my provisional decision.

My final decision

For the reasons set out above, I uphold this complaint. I require Ageas Insurance Limited to:

- *Pay Mr I what it cost him to rebuild the bay window.*
 - *Ageas is entitled to deduct anything it's already paid to Mr I as part of this claim from this payment.*
 - *Ageas also need not pay anything that could reasonably be considered cash settled with the previous policyholder and homeowner.*

- 8% simple interest should be added to this payment. Interest should be calculated from the date Mr I paid for the work, to the date Ageas pays him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 20 June 2023.

Joe Thornley
Ombudsman