

The complaint

Mr L complains about how Soteria Insurance Limited handled his claim for subsidence on his home insurance.

What happened

Mr L had home insurance that was underwritten by Soteria. In September 2019 he made a claim after he noticed cracks around the rear of his property.

Soteria accepted the claim and after site investigations, identified the cause of the subsidence as a tree owned by Mr L's neighbour. This was removed in June 2020.

After this Soteria assessed the damage again and concluded that some of it was due to wear and tear, rather than subsidence. It only agreed to cover repairs to the utility room and said damage to the conservatory style roof of the kitchen and upstairs rooms weren't subsidence related.

Unhappy with this, Mr L instructed his own expert to review the damage. They produced a report that concluded the damage was likely due to subsidence and that there should be further pruning of surrounding vegetation before monitoring is carried out to check stability.

Following the report Soteria agreed to cover the concrete courtyard area and a broken utility room window. It also said it would carry out further monitoring. However it said it wouldn't cover the roof of the kitchen or the cracks in the upstairs of the building.

Mr L made a complaint. He said Soteria had originally said it would cover all the damage and then reneged on that later in the claim. He also said the claim had taken a long time to progress which had impacted his career as he had intended to move, in order to complete a training course.

Soteria agreed it had caused some delays to the claim and offered £750 compensation to apologise for these. However it maintained its position on the claim. Unhappy with this, Mr L brought the complaint to this service.

Our investigator recommended the complaint be upheld. She thought the damage to the kitchen area should be covered as the evidence available suggested this was most likely caused by subsidence. However she thought Soteria had acted fairly by declining the damage to the upstairs bathroom, but this should be reassessed after further monitoring. She also thought Soteria's offer of £750 compensation was fair in the circumstances so didn't ask it to pay anything more.

Soteria didn't agree with our investigator's outcome. It said its expert had concluded the damage to the kitchen was due to wear and tear and Mr L's report wasn't persuasive as it was based on only a limited inspection. It's said it was carrying out further monitoring as recommended in Mr L's report and if this showed that the damage was caused by subsidence it would cover it then.

Mr L accepted our investigator's outcome, although he thought more compensation was due because of the impact the claim had had on the training he intended to partake in, which had an impact on his career.

Soteria asked for the complaint to be reviewed by an ombudsman.

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.

When an insurance claim is made, it is first for the insured to show that there is an insured peril – something that's covered under the policy. It's then for the insurer to either accept the claim or show that an exclusion applies.

Here, Soteria has accepted that there is an insured peril – subsidence. And has agreed to cover some of the repairs to the damage to Mr L's property. However it hasn't agreed to cover all areas, I need to decide if it's acted fairly and reasonably when considering Mr L's claim.

The cracking at Mr L's property occurred in the kitchen, utility room and two rooms upstairs. As well as the external driveway. Soteria agreed that most of the damage to the kitchen and utility area downstairs was caused by subsidence. However it said the conservatory style roof of the kitchen was damaged due to wear and tear rather than subsidence and this was excluded under the policy.

I've considered whether this was a fair conclusion based on the evidence and I don't think Soteria has done enough to show the exclusion would apply.

The report from Soteria's loss adjuster states as follows:

'As discussed following site visit we can confirm there is no subsidence damage to the conservatory roof, as per photographic evidence the damage has been caused due to gradually operating cause (W&T, and lack of maintenance)'

Accompanying these comments are a number of photos of the roof. However there are no obvious signs of wear and tear. The roof looks to be in a good overall condition with no major signs of deterioration. There are some areas where moss and other plant debris has fallen on to the roof, but nothing to show that it hasn't been maintained.

Further, Mr L had a home buyer report completed in 2018, just a year before the subsidence issue was noticed. This comments on the roof covering directly and states:

'The single storey section to the rear has a uPVC fascia which appears to be in generally satisfactory condition.'

So if there was wear and tear, it would have developed in the year from 2018 to 2019 which seems unlikely, considering the nature of that kind of damage.

Additionally, Mr L's own report also comments on the roof:

'The roof of UPVC construction with twin wall sheeted panels has obviously suffered some distortion as a result of movement and the panels are leaking. There is some rainwater ingress along the gutter, but no defect of the conservatory construction was noted therefore we need to consider that this is due to movement.'

Based on all the evidence, I think it's most likely that the damage to the conservatory style roof of the kitchen was caused by subsidence. Soteria hasn't done enough to show that the damage was due to wear and tear and Mr L's own expert concludes the damage is due to distortion from the movement.

Further the damaged roof is in close proximity to the areas of damage that Soteria has accepted as subsidence, and therefore it seems likely the roof would also be affected. For these reasons, I agree with our investigator that Soteria should cover Mr L's claim for the conservatory style roof as part of his subsidence claim and include the repair as part of the settlement.

I've also considered the damage to the upstairs rooms that Soteria has said isn't caused by subsidence. Soteria's loss adjuster has said that due to the position of the cracks and the distance from the source of the subsidence, these are unlikely to be linked. And Mr L's report makes no comment on the cause of these cracks, other than to note their position in the building and that they are likely to be historic. Based on this, I don't think there's enough evidence to suggest that the cracks in the upstairs building are linked to the subsidence. So I think Soteria has acted fairly by not including these as part of the claim.

However should any additional evidence arise that suggests it is linked following the monitoring or investigations then I'd expect Soteria to consider this further.

Compensation

Soteria has agreed the claim hasn't progressed as well as it should have and its offered £750 compensation to make up for this.

Mr L made the claim in September 2019. While there was a small delay to begin with in arranging the temporary repairs, the claim largely progressed as I'd expect until the tree was removed in June 2020.

However after this, it was a further two years before any meaningful progress was made. And during this time, Mr L contacted Soteria on a number of occasions and didn't receive a response. Due to Soteria's inaction, Mr L decided to instruct his own expert to review the damage to his property. Which he paid £1,500 for at the time. While I'm pleased to see Soteria has now reimbursed Mr L for this amount it would have been inconvenient for him to do so at the time.

Mr L has explained that due to the delay to the claim, he has had to change his plans for a period of training he was undertaking as part of his career. And was forced to stay in the location of the property rather than to move to a new house in order to train in an area he thought more desirable.

While I don't doubt the time it has taken to resolve the claim has had an impact on Mr L's plans, I consider the consequences of this to be too remote to hold Soteria responsible for. This is because it isn't possible to know exactly what would have happened had Soteria progressed the claim promptly or what the lasting impact would have been. I understand Mr L was still able to carry out the training in the area of the property, just not in the location he wished to. So it's difficult to calculate the impact of this.

Further, subsidence claims are lengthy by nature, and not all of the delays can be attributed to Soteria's actions. Even if Soteria had moved matters on more promptly, it's likely it still would have taken some time for the house to be stabilised and repaired. So this may have still had an impact on Mr L's training.

For these reasons, I think Soteria's offer of £750 compensation is fair in the circumstances and is in line with what I would have asked it to pay if it hadn't made an offer. So I won't ask it to pay any additional compensation.

My final decision

For the reasons I've given I uphold Mr L's complaint and direct Soteria Insurance Limited to include the damage to the kitchen ceiling as part of Mr L's claim for subsidence, and settle it in line with the terms and conditions of the policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 15 August 2023.

Sophie Goodyear
Ombudsman