

The complaint

Mrs H, Mr H and Mrs I complain that Soteria Insurance Limited has failed to put right subsidence damage to Mrs I's property following a claim she made on her buildings insurance policy in 2018.

What happened

- Mrs I made a claim for subsidence in 2018.
- Soteria accepted the claim and proposed some work, to include the removal of some trees on a neighbour's property.
- Mrs I wasn't happy with this and didn't consent to the work. She later withdrew the claim and cancelled her policy.
- In 2022 Mr and Mrs H - relatives of Mrs I – contacted Soteria asking it to reopen the claim. Soteria initially carried out some work but then said that as the policy had been cancelled it shouldn't have done this and it would not take any further action. Soteria offered to pay a cash settlement of £2,800, which it said represented the value of the claim in 2018.
- Mr and Mrs H complained. Soteria maintained its position that it would not reopen the claim. But in its final response to the complaint Soteria said it would have incurred the cost of tree removal and monitoring in 2018 if the claim hadn't been withdrawn. So it offered to include the cost of this and increase the cash settlement to £8,574.
- Mr and Mrs H replied on behalf of Mrs I. They didn't accept this offer and referred the complaint to this service but our investigator thought the offer was fair and didn't recommend any further action. Mr and Mrs H disagree and have requested an ombudsman's decision.
- The investigator referred to the original offer of £2,800. Soteria has confirmed that the increased offer of £8,574 referred to in its final response letter is still available.

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.

Mrs I originally made a claim in 2018. We have considered a previous complaint from her about earlier events and can't reconsider what happened then. This complaint is only about how Soteria has dealt with things since Mr and Mrs H approached it again in 2022.

The policy provided cover for this type of claim and the dispute is not about whether the claim was covered or not. The only issue for me to decide is whether Soteria should have done more to deal with the subsidence after being contacted again.

I appreciate that Mrs I has health conditions that mean she's unable to pursue the complaint by herself and Mr and Mrs H deal with her affairs. They say Soteria hasn't taken into account how vulnerable she is. But to uphold this complaint, I'd need to conclude that Soteria has done something wrong which means it is now responsible for the works that need to be carried out. Having reviewed things carefully I don't think Soteria has made errors which make it responsible for what has happened since 2018.

Soteria cancelled the policy in 2018 at Mrs I's request. It didn't hear anything further for some time. While Mr and Mrs H say it would have been obvious to Soteria that Mrs I wasn't able to make decisions about her insurance, they didn't contact B again for a long time. It was only in 2022 that Soteria became fully aware of the situation.

It appears the condition of the property has got worse over the years since 2018, which would not be surprising if there is subsidence and action hasn't been taken to deal with it. But I don't think Soteria is responsible for that. Mr and Mrs H say the true extent of the subsidence wasn't known in 2018. I haven't seen expert evidence confirming this. But even if there was such evidence, Soteria was only able to deal with the claim for around two months before it was withdrawn and Mrs I cancelled the policy.

Soteria hasn't had the opportunity during the years between 2018 and 2022 to carry out further inspection or monitoring of the property or undertake repairs. And during that time, the policy hasn't been in force and no premiums have been paid. I don't think it would be fair to hold Soteria responsible for what's happened during these years, when it wasn't the insurer for the property.

Soteria has offered a cash settlement of the amount it would have spent, if the works it identified in 2018 had been carried out. In the circumstances I think that offer is fair. So I won't ask Soteria to do any more than that.

My final decision

Soteria Insurance Limited has made an offer to pay £8,574 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Soteria Insurance Limited should pay £8,574.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H, Mr H and Mrs I to accept or reject my decision before 14 August 2023.

Peter Whiteley
Ombudsman