

## **The complaint**

Mr L complains about the way Advantage Insurance Company Limited has handled a claim he made on his home insurance policy for damage caused by Subsidence.

## **What happened**

Mr L made a claim on his home insurance policy for damage caused by subsidence after noticing damage to his home. Advantage accepted the claim and carried out investigations. An arboricultural report was carried out, that identified some trees as causing subsidence to the property. So it recommended those trees be removed.

Advantage said Mr L would be responsible for the cost of removing the trees, as removing trees wasn't covered under the terms of his policy. Unhappy with Advantage's response, Mr L complained. He removed some of the trees/shrubs identified and an Oak tree, bordering another property, was removed slightly later. Advantage didn't agree to review its position, so Mr L brought his complaint to the Financial Ombudsman Service.

Our investigator didn't think Advantage had acted fairly. She said as Advantage had accepted a claim under the policy, it needed to carry out a lasting and effective repair. She said to do so, that required the trees to be removed, so Advantage should cover this as part of the claim. She said as Mr L had already paid for the removal, Advantage should reimburse what he paid, plus 8% interest from the date he paid his invoice until the date of settlement. She also said Advantage should pay £100 compensation for the unnecessary inconvenience it caused Mr L in having to arrange for the trees to be removed himself.

Advantage didn't accept the outcome of our Investigator. It said the policy terms say it will cover the resultant damage of subsidence, it does not mention covering the cause. It said it wouldn't know which Oak tree to remove, given there were several around the property. And it said the role of the Ombudsman Service was to ensure it had abided by the terms and conditions, not whether we consider it has acted fairly or not.

## **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 think it's important to make clear to Advantage that it is not the role of this Service to only consider whether a financial business has acted in line with its terms and conditions. This Service has a much wider remit than that. Our statutory function, as set out in the Financial Conduct Authority's dispute resolution rules (DISP) is to determine a complaint by considering what is, in the Ombudsman's opinion, fair and reasonable in all the circumstances of the case.

Mr L's policy covers him for loss or damage caused by subsidence. There are some exclusions to that cover, such as loss or damage caused by coastal erosion which isn't covered. But nowhere in the policy does Advantage exclude mitigation works needed to stop an episode of subsidence happening. So I don't accept that the cost of removing trees is excluded under the policy.

Advantage has accepted a claim for subsidence. So it needs to carry out a lasting and effective repair to the property. It accepts that there are trees causing the damage. So I find

that in order to carry out its lasting and effective repair to Mr L's property, it is responsible for the cost of removing them, in this case.

Advantage has argued that its terms say it will cover the resultant damage of subsidence, and it doesn't mention covering the cause. I don't agree with its interpretation. The policy document Advantage has provided to this Service says the policy covers 'loss or damage' caused by subsidence. I think Mr L has suffered a loss caused by subsidence, a loss of having to pay for the influencing trees/shrubs to be removed. So I consider Advantage's policy terms do cover the loss Mr L has experienced.

Advantage has instructed an arboricultural expert to determine which trees were causing the subsidence damage to the property. As far as I'm aware, Mr L has removed all of the trees/shrubs identified in that report, at his own expense.

In response to our Investigator's outcome, Advantage has said it wouldn't know which Oak tree to remove as there are multiple Oak trees near the property. I find this argument to be rather strange. Advantage has hired an arboricultural expert, and its report identified the Oak tree which needed to be removed. So Advantage would have known from this report which tree to remove. And Advantage hasn't provided anything to persuade me that the arboricultural report cannot be relied on.

Advantage has also said it is common for insurers to exclude the cost of removing trees and it is the industry standard. It hasn't provided anything to support its stance that this is common across insurers, or there is a particular standard it is referencing. In my own experience of deciding these types of complaints I've seen many instances where insurers have covered the cost of vegetation removal. So I don't accept its argument that this is 'normal' in the insurance industry.

From Mr L's invoice, it also seems he has removed the relevant Oak tree identified in the report. I think Mr L has removed all of the trees that needed to be. But if I'm mistaken and there are any more trees, identified by that report, that need removing or managing as part of the claim to stabilise the property, then Advantage should arrange this and pay for the cost.

Mr L says it has cost him £1,260 to remove the trees so far. He's provided invoices in support of this. So Advantage needs to refund Mr L that amount, plus 8% from the date he paid it, until the date of settlement. Mr L should be able to provide Advantage information to show when he paid the invoice for the tree removal to assist Advantage with its calculation. I can imagine that having to source his own tree removal company and arrange the works would cause Mr L a degree of distress and inconvenience, so it should also pay Mr L £100 compensation to recognise this.

### **My final decision**

My final decision is that I uphold this complaint. Advantage Insurance Company Limited is required to:

- Reimburse Mr L the £1,260 he paid to have his trees removed. It needs to add 8% simple interest per annum to that amount from the date Mr L paid it, until the date of settlement.
- Arrange, and pay for, any other trees – recommended for removal or management in the arboricultural report - to be removed/reduced as part of the claim, if it is required, in order to stabilise Mr L's property.
- Pay Mr L £100 compensation for unnecessary distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 7 May 2024.

Michelle Henderson  
**Ombudsman**