

## **The complaint**

Mr B complains Covea Insurance plc (Covea) declined a subsidence claim made on his landlord's insurance policy.

Any references to Covea include its agents.

## **What happened**

Mr B previously referred a complaint about Covea's decision to decline a subsidence claim. The final decision issued on that case said Covea hadn't shown the cracking was present before the policy began in May 2021, so it couldn't decline the claim on basis the damage predated the policy start date. The final decision said Mr B's claim needed to be reconsidered, subject to the remaining policy terms.

In late 2023, Covea declined Mr B's subsidence claim again, saying the extension was moving because it was badly constructed. Covea said it wouldn't accept responsibility because the damage predated the start of Mr B's policy and relied on exclusions for damage caused by inadequate foundations and poor design and workmanship. Unhappy with Covea's decision, Mr B complained. In February 2024 Covea issued its final response letter offering Mr B £250 compensation for the poor service he'd received.

Mr B referred his concerns to the Financial Ombudsman Service. They were considered by one of our investigators who initially said Covea couldn't rely on the pre-existing damage exclusion, given the content of the previous final decision. He said Covea hadn't provided any evidence to show why it was relying on the exclusions for poor design and workmanship. Our investigator said Covea should pay Mr B a total of £400 compensation and settle the claim.

Mr B accepted this recommendation, but Covea didn't. As no agreement had been reached, this case has been passed to me to decide.

## **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.

The previous Final Decision said Covea hadn't adequately shown the cracking predated the policy and therefore couldn't rely on that exclusion to decline the claim. Mr B accepted the first Final Decision, which became legally binding on both sides.

In response to our investigator's opinion, Covea provided a copy of a structural engineers' report from July 2004, saying this report was new information and provided by Mr B. Although Covea hasn't confirmed the date it obtained this report it told our investigator it was new evidence and neither side corrected this when the report was addressed as such in the investigator's conclusions.

The report references a single, vertical crack at the junction of the main rear wall and the extension. Covea says this is in the same place as the cracking it believes predated the start date of the policy. However, there aren't any photographs or measurements that accompany the report from 2004. The cause of the cracking is noted as *"the extension foundations being founded on to the consolidated formation level immediately adjacent to the main house and also on the unconsolidated formation level further out"*. The report concludes the cracking isn't a structural fault and that the property was stable.

Covea states the crack in the 2004 report is the same damage being discussed now. It says it doesn't need to prove causation but instead intends to demonstrate the cracking identified in this report is the same claimed for by Mr B, so the decision to decline the claim on the basis the damage predated the policy was reasonable. However, another contact from Covea had a different view, highlighting some statements in the report can't be supported without further investigation or monitoring. They said the report was *"speculative at best and negligent at worst"*.

Ultimately, the report identifies a crack at the rear of the property but doesn't make a finding the crack in question was caused by subsidence and makes the overall finding that the property was in good structural condition at the time the report was written. It's possible the crack referenced is the same currently being discussed but I can't say with certainty it is, and neither side have provided any evidence to support their position on this.

I'm not persuaded this report lends weight to the arguments put forward by either side given the time passed from the report being written in 2004 and the claim being made. The report itself lacks details I'd usually expect to see from a report being relied on to decline a claim. And as Covea highlighted, we'd usually expect to see further monitoring and site investigations to support the conclusions set out in a report that supports an insurer's claim decision. This report lacks the detail I'd usually expect to see and supporting evidence. Given this, I'm not persuaded by its credibility, so I don't consider it's fair for Covea to rely on this report to decline Mr B's claim on the basis the damage was pre-existing.

#### *The new reasons for declining claim*

Mr B provided a copy of an email chain in which Covea relied on two new reasons to decline the claim, in addition to its view the cracking predated the policy. Covea sought to rely on the following exclusions:

- "2. ... an exclusion for damage arising due to inadequate foundations which do not meet building regulations.*
- 3. ... an exclusion for damage which results from poor design and workmanship."*

The loss adjuster noted in March 2023 they considered the damage might have been caused by leaking drains. However, there isn't any further mention of this in Covea's files. In August 2023, Covea's complaint notes said site investigations showed very shallow foundations which were not likely to be compliant with building regulations. But Covea hasn't provided those site investigations which apparently supported the complaint note saying the foundations were inadequate.

If seeking to rely on an exclusion, as Covea sought to here, it's for the insurer to show why it's able to do so. Covea simply hasn't provided any evidence (such as findings of site investigations or analysis) to show it can fairly rely on the exclusions to show either the foundations are inadequate, or damage to the property was caused by poor design and workmanship as referenced in the email to Mr B. On this basis, I don't find Covea has acted fairly in relying on the above exclusions when declining Mr B's claim. So, as Covea has had

ample time to demonstrate an exclusion applies but has failed to do so, I'm going to require Covea to settle Mr B's subsidence claim.

### *Covea's handling of the claim*

Covea accepts its handling of the claim fell below an acceptable standard. It's said that between April and August 2023 communication between its loss adjuster and Mr B was limited when it shouldn't have been. The poor communication and delays have caused Mr B unnecessary worry and stress. I'm going to require it to pay Mr B £400 compensation.

### **Putting things right**

For the reasons set out above I require Covea Insurance plc to:

- Settle Mr B's subsidence claim.
- Pay Mr B £400 compensation.

Covea must pay the compensation within 28 days of the date on which we tell it Mr B accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the payment at 8% a year simple.

### **My final decision**

My final decision is that I uphold Mr B's complaint and order Covea Insurance plc to do what I've set out above in the "Putting things right" section.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 May 2025.

Emma Hawkins

**Ombudsman**