

The complaint

Mr U complains that Arch Insurance (UK) Limited unfairly declined a subsidence claim under his Property Investors insurance policy and removed subsidence cover dating back to the policy's inception.

Where I refer to Arch, this includes the actions of its agents and claims handlers for which it takes responsibility.

Whilst Mr U is represented by his daughter, for ease of reading, I'll refer to all submissions having been made by Mr U directly.

What happened

The detailed background to this complaint is well known to both parties, so I'll only summarise the key events here.

Mr U took out a Property Investors insurance policy, underwritten by Arch, in September 2022. The following year, in July 2023, he made a claim as he'd found some cracking in the walls which he believed to be subsidence.

Arch instructed a loss adjuster, who attended the property.

The loss adjuster informed Arch that they'd visited the property back in 2017 as a result of a claim Mr U had made to his previous insurer. At that time, they'd assessed the cracking as being historical movement and due to some lateral restraint issues. They'd monitored the property and no significant movement had occurred, so they'd determined that it wasn't subsidence. So the previous insurer had declined the claim.

The loss adjusters were of the opinion that the cracking in 2023 was the same as back in 2017. They said it didn't look like Mr U had repaired the damage at the time; rather, that he'd just painted over it.

Based on this advice, Arch declined the claim. It also removed subsidence cover from Mr U's policy dating back to inception.

Mr U didn't think this was fair, so he brought his complaint to our service. But our Investigator didn't uphold it. She was satisfied the cracks weren't covered by the policy, so she said it was fair to decline the claim. But as the broker didn't remove subsidence cover from the policy, and the policy has now expired, she didn't make a finding on whether it was fair for Arch to remove subsidence cover retrospectively.

As Mr U didn't agree with our Investigator, the complaint was passed to me to decide. And I issued the following provisional decision.

My provisional decision

I've taken into account the relevant rules and regulations, and good industry practice. In particular, the Financial Conduct Authority's (FCA) Insurance Conduct of Business

Sourcebook (ICOBS) requires businesses to handle claims promptly and fairly, and to not unreasonably reject a claim.

Claim decline

The terms and conditions of Mr U's insurance policy says it will cover "*damage caused by subsidence or ground heave of any part of the site on which the property stands or landslip*".

The onus is on Mr U to prove that he has a valid claim. So he has to show that, on the face of it, his property has suffered damage as a result of an insured peril. As it stands, Arch has a professional opinion from its loss adjuster to say the property isn't subsiding and these cracks aren't as a result of subsidence. They believe the cracks are historical movement and lateral restraint issues which the policy doesn't cover.

Whilst no further tests or monitoring appears to have taken place in 2023, I don't think it's unreasonable for Arch to rely on the information obtained back in 2017. I say this because, having reviewed photos of the cracks in 2017 and 2023, it's clear – even to a layperson – that these are more than likely to be the exact same cracks. And they don't appear to have become any worse which, if it was subsidence, I'd expect to see given that six years has passed without a remedy.

If Mr U strongly believes his property is subsiding, he may want to get his own professional report on the cause of the cracks – at his own cost – to challenge the decline of his claim. But on the evidence Arch had at the time, I'm satisfied it was fair for it to reach the conclusion it did. And I'm not asking it to do anything more in this regard.

Removing subsidence cover

In light of Mr U's claim, Arch made the decision to remove subsidence cover from the policy. But from the information available it's not clear why and I'm not persuaded this was fair.

I say this because whilst Mr U has made two claims for subsidence in six years, both times he's been told the property isn't suffering from subsidence. Arch hasn't persuaded me why, in these circumstances, it was reasonable to remove cover retrospectively.

I appreciate Arch says that given the property has some movement, it's at a higher risk of subsidence. But all properties suffer from some level of movement and for different reasons; this doesn't mean they will go on to subside.

Whilst the policy has now expired and it's not entirely clear from the information provided whether Arch did in fact remove subsidence cover, for the avoidance of doubt, I find that it would not be fair or reasonable for Arch to do so in these circumstances.

Responses to my provisional decision

Mr U has raised the following points:

- It's unacceptable and negligent that the claim in 2016 was unresolved.
- He'd like to see the reports carried out on the cracks in 2023.
- He has insurance specifically designed to handle claims and take necessary actions through professionals. It's Arch's responsibility to handle this matter effectively and promptly.

Arch has clarified that subsidence cover was not removed from the Property Investors insurance policy for the period of September 2022 to September 2023.

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.

Claim decline

Whilst Mr U does have insurance, as he rightly states in his further submission, it's not designed to cover every eventually. The terms and conditions set out what the policy specifically covers, and the conditions and exclusions which apply.

As I've explained, the policy does cover subsidence. But the professional opinion obtained is that these cracks are not as a result of subsidence. So Mr U hasn't proven that he has a valid claim.

No further evidence has been provided to show me that the cracks are as a result of subsidence. So I see no reason to deviate from the outcome of my provisional decision.

I appreciate Mr U has raised concerns about the claim decline in 2016. But this relates to a different insurance policy held with a different provider, so that's not something I can comment on here. Mr U can raise a complaint to the relevant insurer, but I must make him aware that he may be outside of the time limits to do so.

Removing subsidence cover

As Arch has confirmed that subsidence cover was not ultimately removed from Mr U's insurance policy for the period of September 2022 to September 2023, there's nothing further it needs to do to put things right.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 27 August 2024.

Sheryl Sibley
Ombudsman