

## **The complaint**

Mr K and X complain that Liverpool Victoria Insurance Company Limited (LV) has caused delays with the handling of their subsidence claim on their property and failed to provide an adequate scope of works to repair the damage caused.

## **What happened**

The facts of this complaint are well known to both sides, so I've not set them out in detail here. But in summary, a claim for subsidence was made in March 2021 by Mr K and X. This was initially not accepted by LV but on later inspection it agreed there was a valid subsidence claim.

Tree surgeons completed work on the vegetation at the property in 2022 and following this, there's been discussions about the repair schedule and whether LV will cover the flooring which runs throughout the ground floor of the property. LV said it would only cover the replacement flooring costs for any rooms affected by the subsidence. For any other areas, it would contribute half of the replacement cost under the matching item cover.

Before any repairs could be started more movement was noticed in the property. It was agreed that monitoring should be undertaken ahead of any repairs starting but Mr K and X confirmed they agreed with a proposed schedule of works in September 2022 – this was subject to a further review by LV.

In April 2023, it was agreed there wasn't any significant movement in the property and in July 2023 a site visit took place to check the schedule of works. An issue with the drainage backing up was highlighted by Mr K and X and LV believed this could be the result of defective maintenance and said this would need repairing ahead of any repair works for the subsidence damage. It also said at this point that any damage to the flooring in the downstairs of the property would be repaired locally over replacing the entire floor.

Mr K and X complained about being directed to complete maintenance and repairs to the drainage and gullies. They said this was work completed earlier in the claim journey by LV and any issues would be the result of its actions. LV said its contractor had not carried out any repairs to the drainage gullies which is where it said maintenance was required now.

LV issued a final response on the complaint in October 2023 and said it was sorry for the delays experienced with the claim journey. It said generally a claim time of between 12-18 months is expected with subsidence claims, but this had been exceeded. It sent a payment of £800 in recognition of the delays and said its claim team would be in touch once a revised scope had been reviewed. This was in addition to another £200 payment made directly by the claims management company.

Our investigator looked at this complaint and felt the payment of £1000 in total to recognise the delays and mismanaged expectations on the claim – following this initially being declined then accepted – was fair and reasonable.

They considered whether LV had acted fairly when it had changed its position on the flooring

and whether this should be replaced within the schedule of works for the repairs for the subsidence damage. They didn't think it was fair and reasonable to ask LV to replace all of the flooring as they felt the reports completed on this showed it was likely the floor was already close to the end of its serviceable lifespan.

The flooring had been fitted around 50 years ago and testing showed it was unbounded at different points throughout the property, so it wasn't only rooms affected by the subsidence claim where damage was present. And this damage was the result of the general wear and lifespan of the flooring.

Our investigator said the schedule of works needed to cover the repairs to the floor in the study and downstairs cloakroom as the flooring will need repairing as part of the overall repairs related to the subsidence. She didn't agree the scheduled needed to extend to cover the gym flooring, as despite her initial assessment, she was satisfied this was not needed.

Mr K and X disagreed. They highlighted that the initial offer to replace the entire downstairs flooring with a 50% contribution to the cost was because they have matching sets cover on their policy. They feel this should still be providing this benefit. They also reiterated that this claim journey has caused a great deal of stress over the last three and a half years and this has impacted Mr K's health and underlying health conditions.

Overall, they didn't agree with the assessment and recommendation that it was fair for LV not to provide cover for the downstairs flooring. They questioned the information provided in response to the drainage gullies and maintained that LV was treating them unfairly with its handling of the claim.

Our investigator's opinion remained unchanged and the complaint has been referred for decision at the request of Mr K and X.

### **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've decided to uphold this complaint in part, I appreciate this will be a disappointment to Mr K and X, but I'll explain why I don't think it is fair to ask LV to cover all of the replacement floor costs.

Mr K and X have provided a great deal of information and comments on this complaint. I mean no disrespect by not commenting on everything that has been said, but my role is to focus on the crux of the complaint. As such my decision has focused on what I feel is most relevant to this, although everything said and provided has been taken into account.

What needs to be determined here is whether Mr K and X's policy provides cover to replace the flooring throughout their property even if this is not directly affected by the subsidence damage. If it does not, would it be reasonable to expect LV to still provide this cover and does the schedule of works correctly set out what needs to be done. And finally, is the award made for the delays and impact of these delays on the claim, fair and reasonable.

### **Should LV cover or contribute to all the replacement flooring costs?**

Mr K and X do have matching sets cover on their policy and it is understandable why, when this was previously referenced as a reason for why a payment will be made towards the total replacement cost of the floor, that they are upset when this position has changed.

The policy says the following in relation to matching sets:

*“If you make a claim for damage to a fitted or matching flooring, but we can’t replace or repair the damaged items as not available, we’ll also make a contribution in cash of 50% towards the cost of replacing the undamaged adjoining flooring.*

*If the damaged flooring is to the hall, stairs, or landing, we’ll replace the entire hall, stairs and landing. We won’t contribute to replacing any undamaged flooring in adjoining rooms.”*

So the policy sets out that cover will be provided for flooring in some circumstances. Based on this, I’ve considered whether it is fair to expect this to provide cover for Mr K and X’s floor for any rooms not affected by the subsidence.

Mr K and X have provided a detailed report on the condition of the flooring throughout the property. This explains the floor was fitted in the 1970’s with bitumen which acted as both the adhesive and damp-proof membrane. The report says this has a lifespan of approximately fifty-years as the bitumen gradually loses effectiveness as an adhesive and damp-proof membrane.

A test was completed in each room to demonstrate whether the flooring was unbounded at different points. This shows that in every room, the flooring has become unbounded from the floor beneath with the level of unbounding in each room ranging from between around 33% and 97%.

Mr K and X have said the property has been well maintained over the years and maintenance has been completed which would be expected to extend the lifespan of the floor. I don’t dispute the property is well maintained – the report itself highlights the condition of their property – but it also highlights that despite this, the floor is starting to unbound in multiple locations. This needs to be considered when thinking about the level of work required to repair the subsidence damage and whether it would be fair and reasonable to ask LV to do more than this.

Overall, I am not persuaded it would be fair to ask LV to make a contribution to the overall replacement flooring costs for any rooms not affected by the subsidence. The information provided shows that in every room, the flooring is becoming unbounded and its fair to say with the expected lifespan of the floor, it is nearing its end. This is shown to be needing replacement and it would not be fair to ask LV to cover this maintenance cost as an addition to the claim.

It is right that the schedule of works is amended to make sure the rooms affected by the subsidence are updated with the flooring being replaced here if needing to be moved to facilitate the subsidence repairs. And this means the office and downstairs cloakroom floors will need to be added to the amended schedule. But there is no evidence to show any other rooms downstairs are likely to have the flooring affected by the subsidence work and so LV has acted fairly when not including this with any others.

### **Issues with the drainage repairs**

Mr K and X have questioned why they have been asked to repair the drainage gully when work was completed on the drains by LV and its contractor previously. They feel that any issue now identified would relate to this previous work not being completed properly.

I’ve reviewed the drainage report completed and the work it details was undertaken to repair the drains following the acceptance of the subsidence claim. There is no reference to the gullies being included within the schedule of repair here and the later photos do not

demonstrate there to be a difference in what is visible later on. So I am not persuaded this was work undertaken by LV and its contractor previously.

If Mr K and X feel this work should have been completed previously, as our investigator has said, asking this to be considered in the new schedule of works when this is drawn up is a reasonable next step to complete this now.

### **Distress and inconvenience**

This claim has been ongoing for a number of years. The unfortunate nature of a subsidence claim is that it can take years for things to be put right. Often this is because of the need for a number of things to be completed for the claim as a whole to be settled, including the work to stop any ongoing movement, monitoring to confirm it has worked and the repairs needed resulting from the movement, being completed.

Here it has been accepted by LV this claim has gone on for longer than what can reasonably be expected. This is because despite there being the need for a number of things to happen as would normally be expected, the claim was not always progressed as quickly as it could have been and this has added to the distress and inconvenience for Mr K and X.

It is clear there has been a great deal of frustration and the underlying health conditions of Mr K have been highlighted. I think it is fair to say this has been added to by the ongoing dispute over the schedule of works and whether it is fair to expect LV to include a contribution for the unaffected flooring and its replacement.

But I think the award made is fair and reasonable to represent the impact which goes beyond what I'd reasonably expect to see for a claim of this nature. And based on this, I am not asking LV to increase its award further.

### **Putting things right**

LV needs to produce a new schedule of works to put right the damage caused by the subsidence claim. It will need to include within this, the provision to repair the flooring in both the downstairs study and cloakroom.

But for the reasons I've set out above, LV will not need to make provision for any additional costs in relation to the flooring in the adjoining rooms. Due to the floor throughout the downstairs being shown to be towards the end of its natural lifespan, it is not fair and reasonable to expect LV to contribute to its replacement cost.

### **My final decision**

For the reasons I've explained above, I uphold Mr K and X's complaint in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K and X to accept or reject my decision before 17 January 2025.

Thomas Brissenden  
**Ombudsman**