

The complaint

Mr R complains about Society of Lloyd's decision that a subsidence claim made under his landlord insurance policy should be declined.

What happened

Mr R has a landlord insurance policy underwritten through Society of Lloyd's (SoL) which covers a property he owns and lets out.

He bought the property in 2021. The policy with SoL was taken out in June 2021.

The property had previous damage to a detached garage caused by subsidence. The previous insurers were dealing with a claim and repairs were completed in April 2022.

Mr R quite rightly disclosed the previous subsidence when he bought his policy with SoL. And he disclosed that the cause of the subsidence was "*tree root damage*" (the wording used in Mr R's disclosure statement).

As a result, SoL added two endorsements to the policy, which Mr R agreed before the policy was inception.

One endorsement essentially said SoL would not cover any damage to the outbuildings caused by subsidence, heave or landslip.

The other said any loss or damage resulting from trees, including damage caused by tree roots, was excluded from cover.

Mr R made a claim in August 2022 after he noticed cracking in the walls of the house. Loss adjusters were appointed, and a site visit arranged.

The surveyor's conclusion was that the main house was now affected by subsidence as a result of clay soil shrinkage caused by tree roots. They noted that the damage to the garage had recurred at the same time. And they pointed to a large apple tree in a neighbour's garden and oak trees on the opposite side of the road.

On that basis, SoL declined the claim. They agreed that subsidence was covered for the main house, but not the garage. But they said the damage to the main house was excluded because of the endorsement which said they wouldn't cover damage caused by trees or tree roots.

Mr R wasn't happy with this and made a complaint to SoL. In his view the proximate cause of the damage to the house is subsidence and not the tree roots – and subsidence is covered for the main house (if not the outbuildings).

When SoL didn't uphold his complaint, Mr R brought it to us. Our investigator looked into it and didn't think SoL had done anything wrong.

Mr R disagreed and asked for a decision from an ombudsman.

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.

There's no dispute here about the history of subsidence at the property or about the causes of the damage to Mr R's property.

So, this is a relatively simple case. My decision turns entirely on what I think the tree and tree root endorsement means – and whether that would or should have been clear to Mr R when he bought the policy.

In short, I don't agree with Mr R's argument about the meaning of the endorsement. It's fairly clear in this case that the direct cause of the damage to Mr R's property is the action of the tree roots on the clay soil.

It seems to me that the argument that the tree roots caused the subsidence, but the subsidence caused the damage, is a semantic and spurious one.

The damage is caused by the tree roots taking moisture out of the soil and causing it to shrink. There is no intervening *independent* cause or factor to take into account which might lead to the conclusion that the tree roots weren't the direct or proximate cause of the damage.

The meaning of the endorsement would, in my view, be reasonably clear to the average reader. SoL were aware that subsidence caused by tree roots had damaged other parts of the property. They did not wish to cover damage to any part of the property as a result of subsidence caused by tree roots.

It's a stretch to read the endorsement in any other way. Even more of a stretch when you consider the background. And I note Mr R agreed a statement when he bought the policy which described the previous problems (with the garage) as subsidence caused by "*tree root damage*".

I am sorry Mr R finds himself in these circumstances. But he bought a property with known subsidence damage- caused by tree roots. And he bought an insurance policy which he knew, or ought to have known, would not cover subsidence damage resulting from tree roots – because SoL did not want to take on that risk.

SoL were clear about that before Mr R purchased the policy in the endorsements they insisted on as a condition of providing cover.

So, I'm satisfied it was neither unfair nor unreasonable for SoL to decline Mr R's claim.

My final decision

For the reasons set out above, I don't uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 14 March 2025.

Neil Marshall
Ombudsman