

The complaint

Mr and Mrs D complain that esure Insurance Limited declined a claim they made under their home insurance policy.

Reference to Mrs D includes her representative.

What happened

I'll summarise what I consider to be the keys aspects of the background:

- Mr D got in touch with esure in 2021 to make a claim for damage to the property. esure appointed a loss adjuster, S, who considered the claim under the subsidence section of the policy.
- A structural engineer from S reviewed video footage of the damage and said they couldn't see any evidence of subsidence. They said the concrete floor slab had dropped due to consolidation of the sub-base, and a dividing wall at first floor level didn't align with the loadbearing wall at ground floor level. The claim was declined.
- Mr D got back in touch with esure. He'd taken professional advice which said there may be a problem with the drainage system. esure initially maintained its position, before agreeing to appoint A to carry out further investigations.
- A said a drainage gully was poorly capped off by using a brick and should be put right. esure considered this amounted to poor workmanship and wasn't covered by the policy. And S said any leak from the gully was too remote to cause the building damage. A found no other drainage defects.
- A also investigated the construction and ground conditions. It said one wall was built off the floor slab, whilst another had its own footing. And the floor slab was built on a loose hardcore and fill sub-base. A found water, which it said was likely to be ground water as there were no significant drainage defects. As the investigations supported S' earlier findings, the claim remained declined.
- Mr D took advice from L, a chartered surveyor, who reported following an inspection. L said the floor slab had suffered significant subsidence. L thought it difficult to determine the cause of the problem from an inspection alone and recommended a drainage survey to look into the problem further, noting the water found by A.
- Mrs D said there had been a recent leak from the stopcock, which had been repaired, but which may have caused the damage. esure appointed D to consider a claim for escape of water. After inspecting the damage, D didn't think the damage had been caused by a leak and declined the claim. Mrs D complained.
- esure maintained the damage had been caused by consolidation of the sub-base, wasn't covered, and hadn't been caused by an escape of water. And the drainage

problem wasn't covered by the policy either. It accepted there had been communication problems and paid £150 compensation as a result.

- Our investigator thought esure had acted fairly in the circumstances. Mrs D disagreed and asked for the complaint to be referred to 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.

- The main complaint point is that esure declined the claim. And, secondly, that it communicated poorly. I'll consider whether esure acted fairly on each point.

Was it fair for esure to decline the claim?

- The policy covers damage caused by, amongst other things, subsidence, escape of water, and accidental damage. It also covers accidental breakage to underground services. All of this cover is subject to a number of terms and conditions.
- Subsidence is defined in the policy as the downward movement of the ground on which the property stands, other than by settlement. The policy doesn't cover subsidence damage resulting from the movement of floor slabs unless the foundations of the property are damaged by the same cause at the same time.
- S said the damage was caused by the floor slab dropping as a result of the consolidation of the sub-base. I think this meets the policy definition of subsidence. And I note L described it as subsidence. S said the damage was caused by movement of the floor slab alone – and that was supported by a lack of cracking to the external walls, as well as A's investigation into the construction.
- Whilst L said it was difficult to determine the cause of damage in these circumstances, it didn't challenge what S or A had said or suggest an alternative cause. I haven't seen any other professional opinion that might challenge S' findings. And I note those findings were made by a chartered structural engineer.
- The main focus of the claim and complaint is clearly on the damage to the ground floor. But S also considered some other damage. The engineer said a dividing wall at first floor level didn't align with the loadbearing wall at ground floor level. I'm not sure this is in dispute any longer but, for completeness, I haven't seen any other professional opinions to challenge S' position on this. So I accept what S has said.
- In these circumstances, I'm satisfied it was fair for esure to rely on S' professional opinion and decline the claim for subsidence.
- The policy covers damage caused by water escaping from water tanks, pipes, domestic appliances and the like. The presence of water beneath the floor slab isn't disputed as it was noted in A's investigation report. But, unless that water escaped in a way set out by the policy *and* it caused damage, it's not relevant to this claim.
- A only found one defect in the underground drainage system: the poorly capped off gully. S noted this could be causing a leak to some extent but thought it would be too remote from the damage to be responsible for it, even if there were a leak. Again, this

is the professional opinion of a chartered structural engineer – and I haven't seen any other professional opinion to challenge it.

- Mrs D said a stopcock had recently leaked. *If* that leak had caused the damage claimed for, I think that would meet the requirements of the policy for escape of water cover to be considered further. But D didn't find any evidence of that when it inspected. And I haven't seen any other professional opinion to suggest the stopcock leak likely caused the damage claimed for. D suggested further investigations that could be carried out, I think because it was unsure of the extent of investigations that had already been carried out and their outcomes. esure didn't think anything further was needed, as it had considered all the different ways the damage might be covered by that time. I think that was a reasonable position to take.
- Overall, I'm satisfied it was fair for esure to decline the claim for escape of water.
- The policy covers the cost of repairing underground pipes which break accidentally. I think that cover includes the gully in principle. It's unclear whether the problem A found would amount to 'accidental breakage'. But, even if it did, the policy doesn't cover damage caused by faulty workmanship, design or materials.
- I understand the problem has been caused by the use of a brick to cap off the gully. I'm satisfied that means it's not covered as I think that clearly amounts to faulty workmanship and the like. Whilst I recognise there's no suggestion the problem was caused by Mr or Mrs D, or by anyone working on their behalf, I don't think that changes the position set out by the policy. And even if esure repaired this defect, since it's not thought to have caused the building damage, I'm not sure it would help resolve the main problem claimed for.
- Lastly, the policy covers accidental damage, which is defined to mean single, sudden, unexpected and physical damage, which was not deliberate. I don't think there's any doubt there's physical damage to the building – or that it was unexpected and not deliberate. However, given the cause of the damage described by S, I'm not satisfied the damage was sudden – I think it likely occurred over time due to the gradual nature of the consolidation taking place beneath the floor.
- Taking everything into account, that means I'm satisfied it was fair for esure to decline the claim under all relevant sections of the policy, based on the available evidence. Mr and Mrs D are entitled to take further professional advice and share it with esure if they wish. If so, I would expect esure to consider whether that changes the claim outcome.

Did esure handle the claim fairly?

- esure has accepted it didn't always communicate well. This was particularly so in the latter part of the claim, when it was agreed all communication would be through a representative – but that didn't happen at times and clearly caused some distress.
- Similarly, esure has accepted there were times when it wasn't very clear what steps were being taken, or how long they would take – and it caused some delays progressing the claim. I think this also caused some distress, especially when Mrs D understood D would carry out further investigations, only for esure to say it wouldn't.
- To recognise the impact of these failings, esure paid £150 compensation. I'm satisfied that's a reasonable amount in the circumstances.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs D to accept or reject my decision before 3 March 2025.

James Neville
Ombudsman