

The complaint

Mr L complains that following a lengthy subsidence claim, which is still ongoing, Soteria Insurance Limited have maintained their decision that cracking to the first floor of his property isn't related to subsidence.

He's also unhappy that some of his contents have been damaged by water ingress, and that his claim has been subject to poor communication and delays.

What happened

Mr L has home insurance underwritten by Soteria. In September 2019 he noticed cracks to the rear of his property. Soteria accepted his claim and after investigations the cause of the subsidence was identified as a tree owned by his neighbour. This was removed in June 2020.

The parties are both aware of the history of this case so I'm not going to go through this in detail. I'm just going to cover the issues relevant to this complaint.

Unhappy with how Soteria dealt with his claim Mr L brought a complaint to our service and a decision was issued in July 2023. At the time of the decision monitoring of the property was ongoing. The parties have both received that decision which stated that Soteria should cover the damaged kitchen roof as part of Mr L's subsidence claim.

The ombudsman considered the damage to the upstairs room that Soteria had said wasn't caused by subsidence. And didn't think there was enough evidence to say the cracks to the upstairs of Mr L's property were linked to subsidence. But she said that if any additional evidence should arise following monitoring or investigations to suggest it was linked then she'd expect Soteria to consider this further.

Monitoring of the property continued after July 2023 as the property needed to have stabilised for repair works to be carried out by Soteria. In November 2023 Soteria's loss adjusters contacted Mr L about him arranging repairs to the kitchen roof guttering, which they said he needed to complete before the repairs to the kitchen roof could be carried out.

Mr L responded saying the leaking roof was the result of subsidence damage, and while he accepted the design of the guttering wasn't optimal, no issues were identified before the subsidence and if Soteria wanted to raise this as an issue, they should have done this before the ombudsman made her decision. And he said water ingress had caused damage to a desk and laptop and he was prepared to accept £349 to cover the cost of repairing/replacing these items.

The issues weren't resolved and Mr L raised a further complaint on 2 January 2024. This related to the guttering works he been asked to arrange, Soteria's failure to comply with the July 2023 decision and the damage to his personal belongings. The complaint also set out details of the impact of the ongoing delays. This included lost income from his lodger who'd moved out due to the condition of the property. Mr L said he'd accept £132 per week to cover lost rent if the water ingress continued after 31 January 2024. And he wanted £750

compensation for the distress and inconvenience he'd experienced.

Soteria responded to this further complaint on 19 January 2024. They said they'd arranged for their loss adjusters to attend his property to assess the damage to the kitchen roof. Mr L had asked for confirmation of the purpose of this visit which wasn't provided, so the visit didn't go ahead. Soteria said they'd paid £200 for the inconvenience this had caused Mr L.

Mr L had raised further concerns about the loss adjusters wanting him to arrange and pay for guttering works before their contractors could carry out temporary make safe repairs to the kitchen roof. This was reviewed and a senior claims handler agreed to accept the guttering as part of Mr L's claim. And they said they'd consider Mr L's damaged desk and laptop, but any payment would be subject to his contents policy excess of £550. They apologised that he hadn't been advised of this earlier.

The final response letter then goes on to consider the results of the ongoing monitoring of Mr L's property. Soteria said he'd been sent the latest monitoring readings earlier in January 2024 and these hadn't indicated any significant movement. Their loss adjusters remained of the opinion that the cracking to the upstairs of his property was unrelated to the subsidence to the rear of the property. So they said they were unable to accept the damage to the upstairs of his property as part of his claim.

Soteria apologised for their loss adjusters delaying Mr L's claim after the decision in July 2023 and said they'd arranged to send him a cheque for £450 to compensate him for the impact of the delay.

Following the final response letter Soteria emailed Mr L on 1 February 2024 advising him that their investigations established that the cracks to the upper floor of his property weren't indicative of subsidence related movement. But were a consequence of deflection to the floor on which the walls are supported. The deflection being a consequence of the walls resting on top of wooden timbers and would be expected, subject to how his home had been designed. They said this decision had been based on the monitoring readings and Mr L's structural engineer's report.

Mr L then complained to our service. Our investigator considered the case and partially upheld Mr L's complaint. He said that insurers are expected to put their customers back into the position they were in before the loss occurred, and this can be done by either providing a case settlement, or by completing the repairs themselves. And if they decide to carry out reinstatement works then we expect them to carry out a lasting and effective repair.

Soteria agreed to pay £594.80 for Mr L's damaged laptop keyboard and desk. But he was unhappy that they intended to record this as a separate contents claim. Mr L wanted the payment to be made as compensation, and not included in the total claim costs, as these costs were incurred because of Soteria's actions, rather than the subsidence itself.

Our investigator said that based on what he'd seen these costs weren't related to the insured event, but were related to issues with the roof, which could've been avoided if action had been taken. So he said the costs shouldn't be recorded against the claim and should be made as a one-off payment.

To recognise the delay in Mr L having access to the funds our investigator said Soteria should include 8% simple interest on the payment from 19 January 2024 until payment is made.

Our investigator said the July 2023 final decision said the kitchen roof repairs should be settled as part of the claim. Mr L had told us that "*That there is significant cracking with water*

ingress directly adjacent to the UPVC roof and then less prominent cracking around the whole of the rest of the room where the ceiling meets the roof.”

Our investigator said he expected Soteria to address and correct any cracking to the kitchen, where the ceiling meets the roof, and this had been agreed since Mr L brought the complaint to our service. And he expected them to carry out a lasting and effective repair to this and the guttering, as Soteria had agreed to cover the guttering repairs in their final response of 19 January 2024.

Our investigator then considered the cracking to the first floor of Mr L's property. The July 2023 decision had said there wasn't enough evidence to say this was related to the initial subsidence.

Mr L has said there are two main areas of cracking, one above the door to the bathroom and one above the door to the second bedroom

Our investigator said that we rely on professional reports to give us an indication of what is most likely to have occurred. Soteria undertook further monitoring of the property and have said:

“The level monitoring to the rear of the property hasn't indicated any significant movement to the foundation. It I therefore considered that the mitigation measure undertaken have been sufficient to restore stability and it is therefore in order for repairs to proceed.

Similarly the crack width monitoring hasn't indicated any significant movement. We remain of the opinion that the cracking at first floor level within the landing area to the main part of the property is unrelated to the subsidence to the rear of the rear projection, and therefore the repairs required can't be included as part of the claim. This is in line with the Ombudsman's adjudication (from July 2023).”

Mr L is unhappy that Soteria can't say what they believe has caused the cracking and feels this supports his argument that the cause is in fact subsidence. Our investigator said that Mr L had provided a report that was considered in the July 2023 decision but hadn't provided any further expert evidence.

Mr L has provided his reasons why he felt the first-floor cracking was linked to the subsidence claim, which our investigator said he'd considered. But while he said he understood Mr L feels strongly that the cracking on the first floor is related to the subsidence claim, he hadn't seen any expert evidence that challenged Soteria's position. But if Mr L obtained his own report supporting his opinion then our investigator said he should submit this report direct to Soteria, and if it changed their opinion he'd expect them to consider the costs Mr L incurred in arranging the report.

Mr L has also told us that his lodger left the property in December 2023 and while there were a number of reasons behind this the condition of the property, including the cracking and mould were factors. Our investigator said that Mr L hadn't made a complaint to Soteria about this, and if he wanted to pursue a claim for loss of rent he should contact them directly about this.

Finally our investigator considered the compensation Soteria had paid Mr L for the way in which they'd handled his claim. He reminded the parties that he was only considering events between 18 July 2023 and 19 January 2024.

He said it's clear that the complaint hadn't progressed as Mr L would have expected since his last complaint was closed and this would've caused further inconvenience and

frustration. He said he was pleased that Soteria had paid compensation to reflect this, and he was satisfied that the £650 they'd paid was fair and in line with what he'd have awarded.

Soteria accepted our investigator's opinion but Mr L wanted time to arrange a further inspection of the property and to obtain a surveyor's report. And he said that as the monitoring had shown that there'd been no further widening of the cracks since the cause of the subsidence had been removed, this supported his view that the cracks were caused by subsidence and should be covered as part of his claim. And in the absence of evidence from Soteria confirming what had caused the cracks, he felt we could, without any further evidence, reach a conclusion that on the balance of probabilities they were caused by subsidence.

He also said that the compensation of £650 Soteria had paid didn't reflect their repeated refusals to comply with the July 2023 decision and the further action he'd had to take to get them to act. And he said he'd raised the question of lost rent with Soteria in his complaint of 2 January 2024 and asked them to pay compensation for this. He said it was difficult to quantify the exact amounts he's lost but could do if needed.

In response to the further points raised by Mr L our investigator issued a second opinion. In this he reminded Mr L that he was only looking at issues up to the date of the final response of 19 January 2024.

Our investigator said that if Mr L obtained a report on the cracking and it supported his view that it was caused by subsidence then he could submit it to Soteria for them to consider. And if it changed their opinion he'd expect them to consider the costs of obtaining the report. But he hadn't changed his opinion that the first floor cracking wasn't linked to the initial subsidence.

In respect of the compensation he maintained that the £650 was in line with what we'd have awarded had Soteria not made a payment.

Regarding Mr L's claim for lost rent our investigator said he could see this had been raised with Soteria as part of Mr L's complaint, but they hadn't addressed it. And he said he'd expect Soteria to consider this if Mr L provided details of his losses.

So our investigator's opinion remained that Soteria should make a one-off payment of £594.80 for Mr L's damaged contents which they'd agreed to do. And if Mr L confirmed he was happy to accept this he'd let Soteria know that they should make the payment.

Mr L didn't accept our investigator's further opinion. He said he continues to believe that the evidence available at the date of Soteria's final response letter supports his view that the cracking to the upstairs of his property was due to subsidence.

He said he's provided evidence that the cracking only occurred at the time of the subsidence. This he says is evidenced by his Home Buyer's report which noted no evidence of cracking or movement, and the monitoring after the removal of the tree responsible for the subsidence, which showed no movement after the tree was removed. And he says the door frame upstairs next to one of the cracks distorted and had to be modified by Soteria at the time of the initial subsidence so it would close, which he says is further evidence of the relationship between the cracking and the subsidence.

Mr L says the distortion of the door frame happened within the first few days of the movement accepted by Soteria as subsidence. In addition he says that the cracks are just upstairs from the other cracks accepted as part of his claim, and in a pattern consistent with the rotation of the rear of the house towards the tree as it has absorbed excess water – the

cause Soteria has attributed to the subsidence.

Soteria Mr L says have said the cracks are displacement cracks, which Mr L says all cracks are in the sense that displacement (movement) goes hand in hand with the force which causes the cracking and this doesn't explain the underlying cause of the cracking.

The case was then referred for a decision.

Since this was done Mr L has obtained a report from a surveyor dated 16 September 2024. Mr L asked that the report be considered as it came to the same conclusion as he had about the cause of the damage.

The report says that the Home Buyers pre-purchase survey report carried out in 2018 shows no defects in the kitchen uPVC conservatory style roof which was watertight at the time. The roof has leaked since the subsidence claim in 2019 with no leaks or repairs being carried out between the purchase of the property and the claim.

In respect of the cracks to the first floor of Mr L's property the report says that there are some cracks on the first floor landing above the doors which is typically where movement shows itself as doors are a break in the continuity of a wall.

The report says the cracks weren't there when Mr L bought the property in 2018 as they would have been noted in the survey report. And that they appeared at the time of the subsidence claim, were subject to monitoring once the cause of the structural movement had been addressed and there was no further movement. The report concludes by saying that the cost of making good and decorating the first floor landing should be added to the claim.

In sending the report Mr L advised that he'd sent a copy to Soteria asking them to consider the damage further.

On 17 November 2024 Mr L raised a further complaint with our service as he said Soteria hadn't responded to the further complaint he'd raised regarding the inadequacy of the cash settlement he'd been offered. He'd included in this further complaint their failure to cover the repairs to the first floor of his property as part of his subsidence claim, saying he now has an expert's report which he says confirms the damage is due to subsidence.

The case then came to me for a decision. I issued my provisional decision on 12 February 2025. And in it I said: -

I appreciate that this case has been going on for some time. This is partly due to the nature of subsidence claims as once the claim has been accepted and the cause of the subsidence identified and removed, monitoring is going to be necessary to ensure the property has stabilised before repairs can be carried out.

But there have been avoidable delays in this case which Soteria have acknowledged and paid Mr L compensation for. He's not happy with the level of compensation he's received and I'll consider that later.

Some of the issues Mr L raised in the complaints I'm considering have now been resolved so I'll just deal with those briefly.

When Soteria contacted Mr L in November 2023 saying that monitoring had shown the property had stabilised so repairs could be commenced, they asked him to arrange repairs to the guttering before work commenced. This was reviewed by a senior handler at Soteria and it was agreed the cost of repairing the guttering would be included as part of Mr L's

claim in the final response letter of 19 January 2024. But Mr L remains unhappy that it took so long for Soteria to agree this.

Soteria had agreed to pay £594.80 for the items damaged following water ingress at the property, a laptop keyboard and desk, and disposal of the damaged parts. And following our investigator's opinion they agreed that this will be as a one-off payment rather than being recorded against the claim. And to add 8% interest to this amount.

The July 2023 decision directed Soteria to deal with the repairs required to the kitchen roof and our investigator said that they needed to address and correct any cracking to the rest of the kitchen. And to carry out a lasting and effective repair if Mr L didn't choose to accept a cash settlement to complete the repairs himself.

Soteria accepted our investigator's opinion but Mr L remains unhappy about the cracking to the first floor of his property not being accepted as part of his claim, and that Soteria haven't responded to his complaint about his lodger moving out and his lost rental income.

Mr L hasn't provided clear evidence that his lodger moved out due to the condition of the property. He's told us that the reason for his lodger leaving was multi-factored, but the condition of the property was a factor in the lodger leaving and in him not being able to advertise for a new lodger.

While I can see that a lodger wouldn't want to remain in a property that was damp and mouldy as Mr L has said there were a number of reasons for him moving out, I can't say on the basis of the current evidence that this was directly due to subsidence claim or how this has been handled by Soteria. But if Mr L has evidence to confirm that it was he should send this to Soteria and I expect them to consider. I also expect them to consider any details he provides of the period he was unable to find a further lodger for and evidence of the income he lost as a result.

Turning to the cracking to the first floor of Mr L's property Soteria have maintained that this hasn't been caused by subsidence and won't consider it as part of Mr L's claim. While he's raised it again as part of his further complaint about the amount of the cash settlement Soteria have offered him, which I'm not considering, it is part of this complaint and I'm going to address it.

Mr L has said that there was no cracking on the first floor before the subsidence and the cracks appeared at the same time as the other damage. His Home Buyer's report prepared in 2018 supports this as it makes no mention of the cracking. The monitoring of the property has shown that there's been no further movement of the cracks since the tree causing the subsidence was removed.

Soteria have said that the lack of further movement shows that the cracks aren't related to subsidence. Mr L says it shows the opposite and he's now provided a surveyor's report that says the cracks should be considered as part of the subsidence claim.

The only explanation of the cracking given by Soteria is to say it's been caused by deflection. As subsidence can trigger deflection causing structural damage to a property I'm persuaded in this case that on the balance of probabilities the cracks to the first floor of Mr L's property are due to subsidence and should be included by Soteria as part of his claim.

Mr L's claim is now going to be dealt with by way of a cash settlement. While I'm not considering the cash settlement he's been offered he's told us that he asked Soteria how much it would cost to repair the first floor cracks. And they replied on 17 October 2024 giving him a figure of £345.52. He's asked that if I uphold this part of his complaint I direct them to

pay this amount, rather than instructing them to cover the cracking.

Given the time this claim has been progressing I think that's a reasonable request. It's not a large amount in the context of the overall subsidence claim and it brings to an end this part of the complaint. But if Soteria pays this amount then Mr L won't be able to seek a higher figure if when the work to repair the cracks is done he's charged more. And he should bear in mind that any figure quoted by Soteria would be the amount it would cost their contractors to do the work, which may be less than he would be charged.

Mr L has told us that Soteria have agreed to cover the £570 he paid for his surveyor's report dated 17 September 2024 but haven't paid this yet. As I've considered the report and found it persuasive then I agree that Soteria should cover the cost of report and pay simple interest at 8% from the date Mr L paid for the report until Soteria make a payment to him.

Finally I'm going to consider the compensation Soteria have paid Mr L a total of £650. This was made up of an initial payment of £200 in November 2023 and a further payment of £450 in January 2024. While I understand there have been further delays and ongoing issues with the complaint since January 2024 I'm considering the period up until the date of Soteria's final response letter. While I'm not considering what's happened after January 2024 I do think there were unnecessary delays in Soteria accepting that parts of Mr L's claim were due to subsidence and this has caused him distress and inconvenience. And the initial £200 Soteria paid Mr L related to them not notifying him of the purpose of a visit by their loss adjusters.

So I don't think the remaining £450 Soteria have paid is adequate compensation for the delays and impact these have had on Mr L. Taking everything into account I feel a further £250 is appropriate.

To put things right I require Soteria to do the following: -

To pay Mr L £594.80 for the items damaged due to water ingress and disposal of the damaged parts as a one-off payment rather than this being recorded as part of his claim. And to add 8% simple interest to this amount from the date of the loss until payment is made.

To pay Mr L the sum of £345.52 to cover the repairs to the cracking on the first floor of his property.

To pay Mr L £570 to cover the cost of his surveyor's report together with 8% simple interest from the date he paid for the report until Soteria make a payment to him.

To consider any evidence Mr L provides regarding the loss of income from his lodger if this is shown to be related to the subsidence damage.

To pay Mr L a further £250 in compensation for the distress and inconvenience caused by their delays and poor handling of his claim.

So my provisional decision was that I upheld Mr L's complaint.

Mr L has confirmed that he accepts my provisional decision. He's acknowledged my comment that £345.52 may not be enough to cover the cost of repairing the cracking on the first floor of his property, but is happy to accept this to see this issue settled. Soteria haven't responded within the time limit the parties were given.

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.

As Mr L has accepted my provisional decision and Soteria haven't responded I see no reason to reviews my findings.

Putting things right

To put things right I require Soteria to do the following: -

- To pay Mr L £594.80 for the items damaged due to water ingress and disposal of the damaged parts as a one-off payment rather than being recorded as part of his claim. And to add 8% simple interest to this amount from the date of the loss until payment is made.
- To pay Mr L the sum of £345.52 to cover the repairs to the cracking on the first floor of his property.
- To pay Mr L £570 to cover the cost of his surveyor's report together with 8% simple interest from the date of the report until Soteria make a payment to him.
- To consider any evidence Mr L provides regarding the loss of income from his lodger if this is shown to be related to the subsidence damage.
- To pay Mr L a further £250 in compensation for the distress and inconvenience caused by their delays and poor handling of his claim.

My final decision

For the reasons set out above and in my provisional decision I uphold Mr L's complaint about Soteria Insurance Limited. And I require them to take the steps set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 28 March 2025.

Patricia O'Leary
Ombudsman