

The complaint

Mr M1 and Mr M2 have complained about the way Ageas Insurance Limited handled a claim made under their property insurance policy.

Mr M1 has primarily dealt with the claim and complaint so, for simplicity, I'll refer to him only and call him Mr M.

What happened

The circumstances aren't in dispute, so I'll summarise the background:

- Mr M got in touch with Ageas in September 2018 about damage to his property. Ageas accepted the damage was caused by subsidence and covered by the policy. It appointed a loss adjuster, C, to handle the claim.
- Mr M raised complaints about a number of points, including delays, communication, and financial losses, including loss of rent (LOR).
- Ageas provided a complaint response in April 2023. It accepted there had been unnecessary delays and offered compensation. It said C was preparing a schedule of work for the building repairs. It also said it would consider LOR separately and, in relation to other financial losses, Mr M should raise them with C in the first instance.
- Ageas provided another complaint response in July 2023, which focused on LOR. It said it had paid the full policy limit of £60,000. And, in response to the complaint, it had paid an additional two months of LOR. It also said a meeting would be arranged to finalise the schedule of work.
- Our investigator thought we could only consider the LOR matter, and the claim handling between April and July 2023, as the April 2023 complaint response had been referred to this Service too late. As Ageas had paid the fully policy limit for LOR, he said he would only ask Ageas to pay more LOR where it had caused avoidable delays. He thought it had caused a total of nine months of avoidable delays and should therefore pay for an additional seven, plus interest, and £200 compensation.
- Ageas agreed with what our investigator had said. Mr M didn't. In summary, he thought Ageas had caused longer delays and should therefore pay more LOR. As an agreement wasn't reached, the matter has been passed to me.

My provisional decision

I issued a provisional decision in which I said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

- I've made a separate decision in which I've set out the extent to which we can consider this complaint. In summary, we only have the power to consider this complaint insofar as it relates to the July 2023 final response. We don't have the power to consider any other parts of the complaint.
- Whilst I know matters continued beyond July 2023, they're outside the scope of this complaint. So I won't comment on them, make any findings about them, or take them into account in this decision.
- Mr M is entitled to raise a new complaint with Ageas in relation to any matters it hasn't yet considered. And, if that's not answered to his satisfaction by Ageas, he's entitled to refer it to this Service. Those matters may include the claim events since July 2023. They may also include Mr M's financial losses, aside from LOR up to July 2023, as Ageas didn't provide a substantive answer to them in the April or July 2023 final responses – it merely invited Mr M to set out such losses in more detail.
- There are two main complaint points I can consider: the LOR matter and the claim handling between April and July 2023. I'll consider each point separately.

Loss of rent policy cover

- I'll start by considering Ageas' obligations under the policy. Ageas provided LOR cover up to £60,000 or 24 months. Ageas paid £60,000, which amounted to 16 months LOR.
- That means Ageas has fulfilled the LOR cover provided by the policy and, under the policy, there is no more LOR cover available.
- I understand the tenant had moved out by the start of the claim in September 2018 due to the nature and extent of the damage. Mr M said the property hadn't become tenable up to July 2023 and Ageas seems to have accepted that as repairs hadn't been carried out. As a result, Mr M lost rent for around 57 months up to that time.
- Ageas has paid for 16 of those months under the policy, leaving 41 months. This has left Mr M with a considerable financial loss. He considers Ageas responsible for much of it. So, I've considered whether Ageas should pay any further financial loss resulting from this lost rent, outside of the policy, as compensation.

Loss of rent as compensation

- I consider it fair and reasonable for Ageas to pay further LOR as compensation for financial loss to the extent it caused any *avoidable* delays. I wouldn't expect it to pay during times of unavoidable delay, including delays beyond Ageas' control.
- I don't think this principle is in dispute. Ageas itself offered to pay an additional 2 months of LOR as it accepted it had caused such delays. After our investigator asked it to pay a further 7 months for further such delays, it agreed to do so, making 9 months in total. Mr M thinks Ageas should pay much more than this.
- There's extensive correspondence on file from both parties about the claim during the relevant time. I don't think the facts about what happened are in dispute – only the extent to which there was an avoidable delay. Because of that, and bearing in mind the informal nature of this Service, I won't comment on everything that happened. Instead, I'll summarise the points I consider are key to reaching and

explaining my view on the extent of avoidable delays – and therefore how much additional LOR Ageas should pay as compensation for financial loss, up to July 2023.

- To keep things as clear as I can, I'll split the claim into sections. Before I do, there's a key point to note about what Ageas, through C, was responsible for.
- I understand Mr M considers C ought to have prepared for underpinning the property whilst pursuing tree removal in 2019. I don't see it the same way and I'll explain why.
- Ageas' policy covers damage caused by subsidence. Taken literally, that cover would be limited to repairing crack damage and the like only. However, in practice, insurers should ensure any repair is lasting and effective – and the only way to do that is to stabilise the property. That usually means stopping the cause of the movement – removing implicated vegetation and/or repairing defective drainage – or, if that's not possible or would take too long, underpinning or similar. But it's important to note that underpinning isn't covered by the policy. And, given how expensive it can be, it's usually seen as a 'last resort' – and reasonably so in my view.
- As a result, my consideration is whether C took reasonable, prompt steps to ensure a lasting and effective repair could be achieved – in the specific circumstances of this claim. That means taking into account the cause(s) of subsidence at Mr M's property and the steps necessarily involved in stabilising the property.

Loss of rent – September 2018 to July 2020

- After the claim was made in September 2018, C was appointed and inspected the damage in December 2018. Ground and drainage investigations were arranged, and monitoring setup in March 2019. Soon after, C said the subsidence movement had been caused by clay shrinkage due to a nearby tree belonging to the local authority.
- C got in touch with the local authority to seek removal of the tree, sharing an arborist report and monitoring readings. By May 2020, the tree had been removed. A monitoring reading was taken in July 2020 to confirm stability after tree removal.
- The initial claim steps were taken slower than I'd usually expect to see. It took an unusually long amount of time for the inspection to take place and for monitoring to start. I've taken into account that C said this was the result of a large influx of claims. Whilst that means some delay is unavoidable, I'm not satisfied it would be fair to consider this entirely beyond Ageas' control.
- But whilst monitoring was ongoing, I don't think the claim could reasonably have progressed more promptly. It's often not possible to secure agreement from a local authority to have a tree removed at all – and to do so within around 18 months is unusually prompt. And it's often good practice to monitor after tree removal to gauge whether the property has stabilised.
- Nonetheless, if the monitoring had started sooner, it's likely the tree would have been removed sooner, the monitoring would have ended sooner, and the claim would have progressed sooner too. I understand this is why Ageas offered 2 months LOR. I'm satisfied that's a reasonable amount to reflect the avoidable delays up to that point.

Loss of rent – August 2020 to March 2021

- After the monitoring stopped, C appointed a builder to prepare a schedule of repair. The builder inspected the damage in August 2020, but referred the matter back to C due to the nature and extent of the damage.
- It wasn't until March 2021 that the next step was taken – a joint visit between C and the builder. C seems to have labelled this as a delay caused by the builder. But whether the delay was caused by C or the builder is irrelevant to Mr M – and to my consideration. Ageas is responsible for the claim handling, including C and the builder. So it's responsible regardless of which party caused the delay.
- That means there was an avoidable delay of around six months before the next meaningful steps were taken in March 2021.

Loss of rent – April 2021 to September 2022

- Following that visit, C said another tree should be removed. It arranged for that to happen reasonably promptly and prepared the schedule of work at the same time. By July 2021 the tree was removed, and C would have been ready to arrange the repairs it had scheduled. But Mr M didn't think the scheduled repairs went far enough to provide a lasting and effective repair of the subsidence damage.
- In August 2021, Mr M took advice from a structural engineer, D, and shared it with C. D questioned whether C was fully aware of the scale of the subsidence damage and suggested further monitoring was required to understand whether removing one tree alone was sufficient to stabilise the property. D also thought further investigation into the drainage system was required.
- C agreed to further monitoring, although there was a delay of around a month restarting it. Monitoring continued until September 2022.
- I know Mr M considers much, if not all, of this period of time was an unreasonable delay caused by C. This is quite a nuanced point. I must consider whether C caused an avoidable delay. And, to do that, I must consider whether it acted unreasonably and, if so, whether the claim would have progressed more promptly if it had acted reasonably. D pointed to a number of concerns about the way C had handled the claim. But it's not clear that if C had acted as D suggested, the claim would have progressed more promptly. I'll explain why.
- In my view, D's advice was essentially that more monitoring was needed to understand the position with stability, and it wasn't appropriate to move direct to repairs in summer 2021. So, in that respect, it could be considered that C hadn't acted reasonably, as it had intended to proceed with repairs without being assured the property had stabilised.
- I think the subsequent monitoring showed why D gave that advice – there was much continued recovery into summer 2022. So if C had acted as D thought it should – and checked the stability position – it's likely monitoring would have continued through to summer 2022 regardless. So I don't think the claim would have progressed sooner.
- That means there's a month of delay restarting the monitoring – but nothing further.

Loss of rent – October 2022 to July 2023

- Once the monitoring period was complete in September 2022, C reviewed the readings, which reasonably took some time in October 2022. It decided the property had stabilised and was ready to repair. It arranged to visit again and update the schedule of work to reflect the damage as it was by that time.
- C arranged to visit in March 2023. By May 2023, C sent the same schedule of work it had prepared in July 2021 – which Mr M thought was insufficient to provide a lasting and effective repair of the subsidence damage. A dispute arose about the extent of repair required and C said a further visit would take place – and that remained the position at the time of the complaint response in July 2023.
- I'm not satisfied any meaningful progress was made between November 2022 and July 2023 – as the next step put forward by C was once again a visit, effectively returning to the October 2022 position. So I consider this period of time was also an avoidable delay. That makes a total of 9 months delay in this part of the claim.

Loss of rent summary

- For the reasons given above, I consider Ageas is responsible for a total of 18 months of avoidable delays. And, as I explained above, that means I consider it would be fair and reasonable for Ageas to pay compensation to the value of the financial loss caused by that avoidable delay.
- Ageas has already for 2 months, so that can be deducted. That means it should pay an additional sum equivalent to 16 months of loss of rent as compensation – for the period up to July 2023. That includes the additional months our investigator recommended, which I don't think have been paid.
- Our investigator recommended Ageas pay interest on the lost rent from the time the 2 months were paid – 12 May 2023. Ageas agreed to that. I consider that principle should extend to the 16 additional months. It would recognise that, if Ageas had identified the same avoidable delays I have, it's likely the additional 16 months of lost rent would have been paid in May 2023. As Mr M has been without that money for a considerable time since, it's fair and reasonable for interest to be added.

Claim handling – April 2023 to July 2023

- As I've set out above, I don't think any meaningful progress was made during this time. Whilst the impact on LOR has been considered, it would also likely have caused Mr M distress and inconvenience. By this stage, the claim had been ongoing for nearly five years. That would have been frustrating and disappointing. To have a period of time where very little happened after such a long claim, would only have compounded those feelings.
- Our investigator thought Ageas should pay £200 compensation for the avoidable distress and inconvenience caused to Mr M during this time. It agreed to do so. I'm satisfied that's fair and reasonable compensation to reflect the impact on Mr M.

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.

- Both Mr M and Ageas responded to say they accepted my provisional decision.

- In these circumstances, I see no need to comment on it any further. I remain satisfied the remedy I set out in my provisional decision is fair and reasonable for the reasons previously given.
- Mr M noted the limited scope of this complaint and my comments about other complaints he's entitled to make. I understand building repairs are underway and set to complete this summer, following which Mr M is likely to return to Ageas about matters outside the scope of this complaint. If he does so, I would expect Ageas to keep in mind what I've said about what Mr M is entitled to complain about.

My final decision

I uphold this complaint.

I require Ageas Insurance Limited to:

- Pay a sum equivalent to 16 months of loss of rent as compensation for financial loss.
- To that sum, add interest at 8% simple per annum, from 12 May 2023 to the date of settlement*.
- Pay £200 compensation for distress and inconvenience.

*If Ageas considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr M how much it's taken off. It should also give Mr M a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and the estate of Mr M to accept or reject my decision before 31 March 2025.

James Neville
Ombudsman