

The complaint

Miss E and Mr O complain esure Insurance Limited (Esure) unfairly declined their home insurance claim.

Miss E and Mr O are both complainants, but as Mr O has been the main correspondent, and for ease of reading, I refer to only him below.

What happened

In December 2022 Mr O contacted his home insurance provider, Esure. He reported various cracking and other damage to his property. Esure treated the matter as a possible subsidence claim. Its subsidence specialist, following monitoring having identified movement of the property, considered drains or vegetation to potentially be responsible for subsidence. Mr O disputed that cause of damage, instead believing it to be a shale and water chemical reaction.

After some further investigation and discussion Esure accepted subsidence wasn't the cause of damage. As the cause identified by Mr O, chemical reaction of shale and water, isn't covered by the policy, Esure declined the claim.

Mr O complained about the decline. He said Esure had agreed, when he first took out the policy to cover him against damage resulting from shale or related chemical reaction. Esure issued a complaint response in July 2024. It said it had no reason to doubt, as Mr O claimed, that the damage to the property arose from a chemical attack resulting from sulphates in the foundations reacting with water. It explained the policy doesn't cover for damage caused in that way. It said there's no evidence any of the perils covered by his policy had caused the damage.

Esure acknowledged a note in its records, from 2010, relating to shale. It said it had confirmed to Mr O that it could continue to provide general cover despite shale being present in the property's foundations. It explained it hadn't agreed to insure against damage caused by a chemical reaction or shale. It said it had provided Mr O with a standard policy, that covered the standard perils. It concluded the decision to decline the claim was correct.

Unsatisfied with that response Mr O referred his complaint to the Financial Ombudsman Service. He described a range of damage to his property, including cracks, movement of brickwork, doors no longer closing, water seeping out of brickwork and excessive moisture. He believes this is the result of a chemical reaction between "deleterious infill" and water leaking from a mains pipe.

He considers the policy to have been mis-sold, having been told by his broker, a note had been added to his policy regarding the shale. He says at no point was he told he wouldn't be covered for any issue arising from chemical reaction related to shale. He said he would have remained with his previous insurer, who did cover that cause of damage, if he had been. To resolve his complaint, he would like his claim to be accepted.

Our Investigator found Esure had declined the claim fairly as the cause of damage hadn't been shown to be one covered by the policy. He said damage caused by chemical reaction isn't covered by the policy. He accepted Mr O had notified Esure of the shale issue in 2010 but wasn't persuaded that meant any damage resulting from it would be covered. He recommended it pay £250 to Mr O to compensate him for taking longer than necessary to progress the claim. Esure accepted that outcome, but as Mr O didn't the complaint was passed to me to decide.

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 this is an informal service I'm not going to respond here to every point or piece of evidence Mr O and Esure have provided. Instead, I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted.

Mr O's policy terms provide cover for his building against damage caused by a range of 'perils'. These include theft, fire, storm, flood, explosion, subsidence or heave and escape of water. Esure ruled out subsidence as a cause. Mr O hasn't disagreed with its conclusion.

He considers chemical reaction from shale and water to be the cause of damage. Chemical reaction or shale or similar isn't listed as an insured peril in the policy terms I've been provided with. Based on that information, I can't reasonably say Esure unfairly declined the claim. Mr O hasn't argued the cause to be any other of the listed perils.

But Mr O claims it was agreed, in 2010, that Esure would provide him with cover for damage caused by shale or chemical reaction. I've seen a file note from 2010. It says Mr O called to say there is a material called shale in the foundations. It records the matter as referred to an Esure underwriter, who advised its fine to cover.

Esure doesn't accept that to be an agreement to cover damage caused by shale or a chemical reaction. Instead, it says it had agreed to continue providing standard cover despite the presence of shale. It said Mr O was provided with a standard policy, insuring against only the standard perils listed in the policy terms.

As the cause of damage isn't listed in the standard perils, for me to find Esure unfairly declined the claim, I'd need to be persuaded it most likely did agree to cover Mr O against damage resulting from shale or chemical reaction or similar. I accept it's possible that was Esure's intention, but it doesn't seem to me that is most likely.

Ultimately for Esure to provide the cover Mr O describes it would have been providing him with something unusual, cover in addition to that provided as standard, so I'd need to be provided with persuasive evidence. In the absence of it, I consider its explanation, that it agreed to continue providing standard cover even with the knowledge of the presence of shale, to be the more likely and persuasive. So I'm not persuaded shale or chemical reaction damage cover was agreed. Whilst I realise this will be disappointing for Mr O, I can't say Esure unfairly declined the claim.

Esure agreed to the Investigator's recommendation it pay £250 compensation in recognition of a failure to progress the claim promptly. I agree that's fair compensation for the impact of any omissions or failures on its part during its handling of the claim.

My final decision

For the reasons given above, I require esure Insurance Limited to pay Mr O £250 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E and Mr O to accept or reject my decision before 15 April 2025.

Daniel Martin
Ombudsman