

The complaint

Mrs R complains about AA Underwriting Insurance Company Limited's handling of her subsidence claim.

What happened

The background to this case is well known to both parties, so I'll provide only a brief summary here.

Mrs R has been represented in making this complaint, but for ease of reference I'll refer simply to Mrs R throughout.

Mrs R has home insurance underwritten by AAUICL. She made a claim in 2019 after noticing damage to her property. At that point, AAUICL declined the claim.

Mrs R made another claim in December 2022, saying that she had cracks in the property which were getting worse and the property had issues with damp.

On this occasion, AAUICL agreed that at least some of the damage was likely caused by subsidence. They monitored the property for a period of time. And then removed a tree near the boundary between Mrs R's garden and her neighbour's.

Mrs R raised a previous complaint with us about AAUICL's handling of the claim. That was resolved in mid-2024, with AAUICL instructed to pay Mrs R £200 in compensation, to treat what they had regarded as two claims (for house and garage separately) as one claim, and to carry out further monitoring after the removal of the vegetation.

After that, Mrs R made further complaints to AAUICL about their (and their agents') handling of the claim. And she brought those complaints to us when AAUICL didn't uphold them.

Our investigator looked into it and upheld the complaint. She asked AAUICL to pay Mrs R £1,000 in compensation for the trouble and upset she'd experienced as a result of their errors and omissions in the handling of the claim.

She also said that AAUICL should cover the cost of Mrs R appointing an independent structural engineer to provide a report on the property – and then act promptly upon the engineer's findings to bring about an effective and lasting repair to any insured damage.

AAUICL agreed with our investigator's view. However, Mrs R wanted us to insist that AA pay for her to commission any further investigations or surveys recommended by the structural engineer.

Mrs R tells us she has no trust in AAUICL to commission their own experts given their previous failings in the handling of the claim.

I believe she was particularly concerned because the structural engineer can't address the cause(s) of the damp in the property – that will need to be done by a chartered buildings surveyor. And she is concerned that AAUICL will not appoint an impartial or independent surveyor.

AAUICL were unwilling to agree to paying for Mrs R to commission any further investigations or surveys recommended by the structural engineer. I believe because they're concerned about escalating costs and/or endlessly on-going investigations and/or surveys.

Our investigator agreed with AAUICL that if the structural engineer identified further investigation or surveys which needed to be carried out, it would be reasonable for AAUICL to commission those investigations and/or surveys.

Mrs R disagreed and asked for a final 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.

I'm not going to go into great detail about the various errors and omissions in AAUICL's handling of the claim. They agreed to the compensation recommended by our investigator, so it's not in dispute that Mrs R has suffered a degree of trouble and upset as a result of their errors or omissions.

Mrs R hasn't raised any objection to the suggested compensation award either.

Suffice to say then that I agree with our investigator's view on the amount of compensation that's fair and reasonable in this case. Mrs R has clearly suffered substantial distress, upset and worry, and serious disruption to daily life, over a prolonged period as result of AAUICL's errors and/or omissions in the handling of the claim.

The structural engineer appointed by Mrs R has now provided a report on the property, dated 6 May 2025.

This appears to be a very detailed, thorough and persuasive report. Its recommendations are that:

- foundation arrangements for the lean-to and garage should be investigated and improved where necessary;
- following completion of any foundation improvement works, either monitoring should be continued to establish whether there's any on-going movement related to nearby vegetation, or that vegetation should be removed ;
- all vegetation be managed according to the existing arboricultural report; and
- a suitably qualified and experienced chartered building surveyor should be instructed, to determine the cause of the significant damp issues and recommend remedial measures.

In line with our investigator's view, it's now for AAUICL to accept those recommendations and make prompt progress to resolve the claim. Neither party objected to that element of our

investigator's view.

I note that where the recommendation is that further investigations be carried out (for example, with regard to the foundations of the lean-to and garage), those investigations should determine the cause(s) of the relevant damage. AAUICL will then be entitled to determine whether that damage is covered under the terms of the policy.

The remaining bone of contention in this case is whether the chartered building surveyor referred to in the fourth recommendation (above) is appointed by Mrs R and/or her representatives (and paid for by AAUICL) or by AAUICL.

Our investigator's view was that following the independent structural engineer's report, any recommended further investigations or surveys could reasonably and fairly be arranged by AAUICL. I agree with that view, and I'll explain why.

I fully understand why Mrs R might be wary about experts appointed and instructed by AAUICL. There is at least one instance in the handling of the claim where AAUICL might be argued to have, at the very least, suggested what conclusion they would like an appointed expert to come to. I don't believe there's evidence to show that was intentional, but I can see why it might worry Mrs R.

However, whether Mrs R likes it now or not, AAUICL are her insurer. And the terms of the contract between them do allow AAUICL to handle a claim in the way they choose - as long as they act within the terms of the policy and fairly and reasonably.

In this case, AAUICL have now appointed an independent firm of loss adjusters to handle the on-going claim. Whilst they have of course been appointed by AAUICL and will be paid by AAUICL, there's no reason to question their professionalism or integrity – or indeed their ability to act impartially. They are an established and sizeable firm.

AAUICL have also given assurances that the appointed firm has the skills, expertise and qualifications to take things forward with the claim.

I should stress here that the important thing for Mrs R has been that the person(s) involved in carrying out the investigations to determine the cause of the damp in the property should have the expertise and qualifications to do so. In other words, that they are a chartered buildings surveyor.

AAUICL say that the appointed firm has that capability. Whilst it may be obvious, I do need to emphasise that the recommended survey should be carried out by an individual (within that firm) who is themselves a chartered buildings surveyor.

In summary, I'm satisfied that there are safeguards in place to ensure that the work to identify the cause(s) of the damp issues is carried out thoroughly and professionally.

As a last resort, if Mrs R isn't happy with the conclusions the chartered buildings surveyor comes to, she would be entitled to make a further complaint to AAUICL - and then bring that complaint to us if she's not satisfied with their response.

I also bear in mind that if Mrs R were to appoint the chartered buildings surveyor - and then that surveyor recommends further investigations or surveys, there is a possibility that would lead to further unnecessary delay as AAUICL – perfectly reasonably – would want time to consider whether they were willing to accept those recommendations (and pay for the further investigations / surveys).

I believe it would be better, in terms of speedy progress to the proper resolution of this claim, if AAUICL's appointed experts were allowed to do their job now. And if matters are still disputed after their reports are provided, then that bridge can be crossed at that point (and not before).

It seems to me that one source of the delays in getting to an outcome here is the mistrust between the parties. And their unwillingness to agree next steps unless they are entirely to their liking.

I suggest both parties should now allow the appointed surveyor to inspect the property and provide a report. There is a possibility that all parties will be able to agree with or accept their findings. If not, then at the very least the issues still under dispute would likely be more clear.

Putting things right

As I've set out above, I agree with our investigator that AAUICL should pay Mrs R £1,000 in compensation for the trouble and upset she experienced as a result of their errors and/or omissions after 17 January 2024 (the date of AAUICL's final response to her previous complaints).

Looking at the information we have on file, I believe AAUICL may already have paid the £1,000 to Mrs R, soon after our investigator issued her view on the case. Just for the sake of absolute clarity, if that is the case, I'm not suggesting they should pay another £1,000.

I'm also going to require AAUICL to act on the recommendations of the independent structural engineer's report (those recommendations are set out above). I believe AAUICL have already paid for that report (but if not, they should of course do so now).

I agree with our investigator that AAUICL are entitled to appoint the recommended chartered buildings surveyor.

I would strongly recommend that AAUICL now deal with this claim as swiftly as is commensurate with getting to a fair and reasonable conclusion. AAUICL are aware that Mrs R is vulnerable. And they're also aware she will be entitled to make a further complaint if there are any further avoidable delays.

My final decision

For the reasons set out above, I uphold Mrs R's complaint.

AA Underwriting Insurance Company Limited must:

- promptly take forward the recommendations of the independent structural engineer's report (as above), in order to bring about an effective and lasting repair to any insured damage; and
- pay Mrs R £1,000 in compensation for her trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 27 June 2025.

Neil Marshall
Ombudsman