

## **The complaint**

P, a limited company, complains about Ageas Insurance Limited's decision to turn down their subsidence claim.

P is represented by one of their directors, Mr I.

Any reference to Ageas includes the actions of its agents.

## **What happened**

In October 2021, P took out a landlord insurance policy with Ageas to cover a rental property. In August 2022, cracks were noticed in the property. P arranged for a structural engineer to carry out an inspection, and they concluded there was subsidence. P therefore made a claim to Ageas. This was initially accepted and Ageas started dealing with the claim.

However, in August 2024, Ageas then turned down the claim. It concluded the damage had happened before the policy started. This was based on a check-in report dated 23 September 2021. Mr I complained to Ageas about its claim decision on P's behalf.

Ageas issued its first final response to the complaint on 18 December 2024 via one of its agents. It said that cracking had appeared prior to the inception of the policy in 2021. Though it also said that a survey report from 2015 had advised there were signs of settlement or subsidence at the front of the property, preventative works had been completed, and the property was in a good state of repair. Ageas said this wasn't disclosed by P on the Statement of Facts when the policy was taken out. It said if it had been aware of this, it would have asked for more information before deciding whether to offer cover.

Ageas issued a second final response on 24 January 2025 via a different agent. It confirmed the claim had been turned down because the check-in report from September 2021 had referred to issues with uPVC doors. Ageas thought this was an indication of subsidence in the property, which predated the start of the cover.

Unhappy with Ageas' responses, Mr I brought a complaint to this service on P's behalf.

Our investigator looked into things and recommended the complaint be upheld. She didn't think the available evidence supported that subsidence damage had happened before the policy started. She recommended that Ageas accept the subsidence claim and also consider P's claim for loss of rent. She also recommended that Ageas pay P £800 compensation for the inconvenience caused to them by its decision to turn down the claim.

Ageas didn't respond to our investigator's recommendations, and so the matter has been passed to me for a decision.

## **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've issued a decision under a separate complaint reference relating to Ageas' handling of the claim. In this decision, I've only considered Ageas' decision to turn down the subsidence claim and its impact of doing so.

Industry rules set out by the regulator (the Financial Conduct Authority) say insurers must not unreasonably reject a claim. I've taken these rules, and other industry guidance, into account when deciding what I think is fair and reasonable in the circumstances of P's complaint.

P purchased the property in 2015, and it had been continuously insured since that point. P took out the policy with Ageas in October 2021.

The policy says:

*'We will pay for any loss, damage, injury, costs or liability described in the policy arising from events happening during any **Period of Insurance** for which **You** have paid, and **We** have accepted the premium.'*

One of the insured perils covered under the policy is subsidence.

For Ageas to turn down the claim in its entirety, I think it would need to show that the subsidence damage started and stopped before October 2021. In other words, that no subsidence damage took place whilst it was on risk. If the subsidence damage started before October 2021 and continued whilst the policy was in force, then I'd expect Ageas to deal with the damage.

Ageas' loss adjuster carried out an inspection in October 2022. They observed various cracking internally and externally at the property and described the damage as being moderate to severe. They attributed this to the effect of nearby vegetation on the clay soil. The loss adjuster said *"We are satisfied that the policyholder has an insurable interest in the subject matter of the claim and that damage has arisen during the currency of the policy"*.

In concluding that the subsidence damage happened before the policy started, Ageas has relied on a tenancy check-in report that was completed in September 2021, so a month before the policy was taken out. This is a 43-page document detailing the condition of the property. It doesn't mention any of the cracking in the property that was observed by Ageas' loss adjuster after the claim was made. I see that Ageas' second final response confirmed the issue related to uPVC doors. The check-in report refers to two uPVC doors that couldn't be fully closed.

Ageas' loss adjuster didn't refer to the uPVC doors in their report detailing the subsidence damage. Also, Mr I arranged for a window and conservatory repair company to inspect the doors and provide him with a quote for repairs. They said:

*'UPVC [sic] French doors at the back of the property are in good overall condition. The frames appear straight and are sitting flush within the wall. The doors appear unaffected by subsidence, we can tell by the overall condition of the doors and the fact that there is plenty of adjustment available. The general conditions of the doors is good and just require servicing to rectify the slight catching at the bottom of one of the doors. There are various factors that cause the catching, the main one being the weather which causes the materials to expand and contract. We believe that the doors just require a service which includes adjustment and this will resolve the slight catching.'*

I'm satisfied from this that the issue with the doors wasn't related to subsidence.

I've also seen a quote from a decorator dated 17 September 2021, which was again around a month before the policy started. The contractor mentioned filling in walls and ceiling cracks to make it as presentable as possible. He then outlined other areas of work needed (sealing lining paper where it had peeled, stain blocking areas, painting ceilings and walls).

Regarding the cracks, he said:

*'I have thought about it thoroughly the filling cracks will need to be done twice one for basic hole covering and second for a better finish. Not perfect but better and least obvious.'*

So, it's clear from this that there were some cracks at the property before the policy started and some decorating work was needed before it could be let out again. However, we don't know how large these cracks were - and the decorator didn't raise any concerns about them that might indicate they could be the sign of a structural problem.

It may be the case that some of the cracks *were* signs of subsidence, but Mr I didn't realise this. If he had done, he could have made a subsidence claim to his insurer at the time. Though from looking at the photos of the cracks that were taken by the loss adjuster in October 2022, there doesn't seem to be any sign of previous repairs to those areas. The loss adjuster didn't observe this either.

It's clear from the loss adjuster report that the subsidence damage (moderate to severe cracking) observed throughout the property happened whilst the policy was in force. I also note that when the loss adjuster revisited the property in August 2023, they observed new areas of damage since their first inspection.

So, it therefore seems there was ongoing movement whilst Ageas was on risk, even if some of this did *potentially* start before the policy was taken out. As we don't know what crack damage there was before the decorating works took place (assuming it was caused by subsidence), I don't think Ageas would be able to differentiate between any subsidence damage that may have happened before the policy started, and what happened after. Therefore, I find that Ageas should put right all the subsidence damage.

Mr I has referred to the ABI domestic subsidence "change of insurer" claims agreement. This says that when there's been continuous insurance but a change of insurer, then if notification of the claim is between eight weeks and one year (which is the case here) then the claim should be accepted and dealt with by the insurer to whom notification is given and the cost of settlement shared equally between the two insurers. This agreement doesn't apply to rental properties, but Ageas can of course reach out to the previous insurer to see if it would be willing to apply the same principles.

In its first final response, Ageas referred to settlement/subsidence being observed in the 2015 survey report, and this not being disclosed to it when the policy was taken out in response to questions it asked about subsidence. Ageas may be indicating here that P has breached their duty to make a fair presentation of the risk, in line with requirements set out under the Insurance Act 2015. However, it hasn't said this, and it hasn't acted in the way I would expect if an insurer did reach this conclusion.

Also, after Mr I provided Ageas with an explanation about this, Ageas seemingly accepted it. I say that because it then issued a second final response and confirmed the claim was turned down because of the information in the check-in report that related to the uPVC doors. So, whilst it seems Ageas is no longer suggesting that there was a breach of the fair presentation of the risk, for completeness, I think Ageas has affirmed the contract in any event and therefore can't now allege there had been a breach under the Insurance Act 2015.

I agree with our investigator that P has been caused inconvenience as a result of Ageas' decision to turn down the claim. No further progress has been made at the property as a result, and P hasn't been able to rent it out due to the damage. In these circumstances, I require Ageas to pay P £800 compensation to recognise this inconvenience.

Mr I wants Ageas to base its settlement of the subsidence claim on the current reinstatement value of the property. Ageas will need to deal with the claim in line with the policy terms. If Mr I is unhappy with the way Ageas does this, he may be able to bring a new complaint to this service on P's behalf, subject to the usual time limits.

Mr I also wants me to require Ageas to pay the claim for loss of rent. However, I won't be doing so, as Ageas didn't make a final claims decision about this. I see there was some dispute between the parties about when the property became uninhabitable. I'm therefore requiring Ageas to assess the claim for loss of rent. If Mr I is unhappy with the claim decision Ageas makes in respect of loss of rent, he may be able to bring a new complaint to this service on P's behalf, again subject to the usual time limits.

Mr I has also asked if he can manage the repairs himself. If he wants a cash settlement instead of Ageas' contractors carrying out the repairs, he can request this from Ageas. Though he should be aware that in these circumstances, the policy terms allow Ageas to limit the cash settlement to the amount it would pay its own suppliers. This may be a lot less than what it would cost Mr I's contractors to do the work. But if this is something Mr I wants to pursue, he should discuss it with Ageas directly.

### **My final decision**

My final decision is that I uphold this complaint. I require Ageas Insurance Limited to deal with the subsidence claim in line with the policy terms. It should also assess the claim for loss of rent. If Ageas Insurance Limited cancelled the policy, this should be reinstated.

I also require Ageas Insurance Limited to pay P £800 compensation.\*

\* Ageas must pay the compensation within 28 days of the date on which we tell it P accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask P to accept or reject my decision before 12 November 2025.

Chantelle Hurn-Ryan  
**Ombudsman**