

The complaint

Mrs M and Mr M complain that Zurich Insurance Company Ltd (“Zurich”) provided conflicting advice when they enquired about potential exclusions in a future claim.

Mr M has acted as the main representative throughout, so, for ease of reading, I will refer to any actions taken, or correspondence provided, as being made by “Mr M” wherever possible.

What happened

Mr M held a home insurance policy which covered his leasehold property. The insurance policy was arranged by his managing agent through a broker and underwritten by Zurich. In 2019, Mr M became aware that a row of trees had been planted in the wrong location when the development his property was part of was first completed. Concerns about the trees continued over several years, and in November 2022 it was confirmed that some of the trees had been condemned for removal. An arborist’s report was commissioned in February 2023 that identified a number of defects in several trees, and it recommended that the trees should be considered for removal.

Mr M sought clarification from Zurich around his insurance cover should one of the trees fail. Between May 2024 and February 2025, he raised this repeatedly through his managing agent and broker, who in turn sought guidance from Zurich. Mr M says the responses he received were inconsistent. In May 2025 Zurich confirmed there were no exclusions on the policy regarding the distance of trees from a property, and that no further action was required if there was no immediate danger. In June 2024 the broker confirmed they had checked the policy with Zurich and been told the distance of trees would not invalidate any claims.

In November and December 2024, the broker relayed Zurich’s position and said that if necessary tree maintenance was carried out, Zurich would not apply any additional terms or invoke the “defective materials” clause in the policy in the event of a claim. But Mr M felt that this did not clearly answer his questions around whether Zurich would apply any exclusions if a tree fell because of poor planting or workmanship; so, he raised a complaint. In January 2025 Zurich issued a final response to Mr M’s complaint but said they could not give a definitive assurance about how the policy would respond to a hypothetical future loss, because any claim assessment would depend on the specific circumstances of any actual incident.

Mr M was unhappy with Zurich’s response to his complaint and considered their final response conflicted with the earlier responses he had received which left him uncertain around whether Zurich would rely on the policy’s design, workmanship or defective materials exclusions in the event of a claim. Mr M then brought the complaint to this Service.

An Investigator looked at what had happened but didn’t think the complaint should be upheld. He said that he wasn’t persuaded Zurich had given conflicting advice, and he said that he was satisfied Zurich had fairly explained that the arborist’s report didn’t identify an imminent risk to the building, so no exclusions or additional terms were being applied at that

point. The Investigator also outlined that it was fair for insurers not to be expected to give definitive assurances about hypothetical future claims, because whether a policy exclusion applies depends on the circumstances of a specific loss.

Mr M did not agree with the Investigator's assessment. He said Zurich had given conflicting and ambiguous advice and that this had left him unable to understand whether he would be insured in the event of a tree falling. He said that Zurich had initially said no exclusion would be applied, but later said they couldn't guarantee how a claim would be treated and that it would be a concern if residents didn't act on risk assessment recommendations. Mr M said that he believed Zurich should have been clearer about the insurance implications and asked for an Ombudsman to consider the complaint.

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.

Having done so, I've reached the same overall conclusion as the Investigator, and I do not uphold this complaint. I appreciate this will be disappointing to Mr M – so, I've set out my reasons below.

I want to start by setting out what I will be considering as part of this complaint. I'm aware that Mr M has raised concerns over the managing agent and the broker of the policy, and I appreciate his complaint does involve several parties. However, I am only able to consider Zurich's actions within my decision, as they are the underwriter of the policy Mr M holds with them. Should Mr M have a specific complaint about the broker of the policy, he would need to raise that with them in the first instance.

I've also intentionally summarised Mr M's complaint in a lot less detail than he's presented it, and I won't comment on every point raised. Instead, I've focussed on what I consider to be the key points that I need to think about in order to reach a fair and reasonable conclusion overall. This reflects the informal nature of this Service and our key function; to resolve disputes quickly, and with minimum formality. However, I want to assure both parties I've read and considered everything provided.

The crux of this complaint is that Mr M says Zurich gave conflicting and ambiguous advice when he asked for information on how his policy would respond in the event of a claim involving the trees at his property. Having reviewed the available correspondence carefully, I'm not persuaded Zurich gave conflicting or misleading advice. Mr M has essentially asked Zurich to confirm, in advance, how the policy would respond to a future event that hasn't happened yet. Zurich explained that whether a policy exclusion applies depends on the circumstances of a specific loss, and that they wouldn't be able to provide a definitive view until a claim was made. In my view, that was a reasonable position for Zurich to take.

The early emails sent via the broker of the policy indicated there were no exclusions based solely on the distance of the trees from the building, and that no additional terms were being applied at that specific time. And the later emails explaining that there it couldn't guarantee a particular outcome were not, in my view, inconsistent with this. I'm satisfied that they reflected the fact that insurers cannot bind themselves about how future hypothetical claim will be treated.

Mr M has outlined why he felt Zurich's comments that, if an owner had been warned about risk to property and did not take any steps to mitigate it, "*this could be a concern*". While I can appreciate why he may have found that troubling, I don't think Zurich acted unfairly or said that they would rely on an exclusion. Instead, I think Zurich outlined that, as an insurer,

they would be entitled to consider specific and relevant circumstances if a claim later occurred. I find that to be fair and proportionate.

Ultimately, whether an exclusion applies generally turns on the proximate cause of the damage, and this can usually only be determined once the losses actually taken place. I do not think that Zurich's position, outlining that they could not predict how the policy would respond until they had all the relevant facts, was unfair or inconsistent with good industry practise. So, while I recognise why Mr M was seeking certainty and clarity over his insurance coverage, I do not find that it was unreasonable or unfair for Zurich to explain that they couldn't provide this in the way he perhaps wanted.

Finally, I can see that Mr M has recently provided a further arborist report which he says indicates the condition of the trees may have deteriorated, and I understand that he has provided this to Zurich for their further comments. However, I'm unable to comment specifically on that report as part of this decision because that information was produced after Zurich's final response to the complaint and has not yet been considered or responded to by Zurich. Under DISP 3.6.1, I'm required to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the specific circumstances of a particular case, and that means I'm only able to consider whether Zurich acted fairly based on the information available to them at the time of their final response to the complaint.

Conclusion

I appreciate Mr M's strength of feeling about this issue and I recognise the considerable effort he has gone to in order to understand the implications of the arborist's report against his policy coverage. But for the reasons I've set out above, I don't find that Zurich acted unfairly when responding to his enquiries, and I'm satisfied their explanations were consistent with how an insurer would reasonably handle questions about hypothetical future claims.

My final decision

For reasons I have outlined above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 7 January 2026.

Stephen Howard

Ombudsman