

The complaint

Mr and Mrs M complain that UIA (Insurance) Limited ('UIA') didn't agree to cover some areas of damage in their home after they made a claim on their home insurance policy for subsidence.

References to UIA include its agents.

What happened

Both parties will be familiar with the background to the complaint, so I'll only briefly summarise what happened here.

Mr and Mrs M contacted UIA in January 2023 to make a claim on their home insurance policy after noticing potential subsidence related damage in their home, and becoming aware that a neighbour in an adjoining property had made an insurance claim for subsidence.

UIA carried out an inspection in January 2023 noting damage to internal plaster on a first floor bedroom and landing which it thought was caused by subsidence, and an external render crack to an extension which it thought wasn't caused by subsidence.

UIA carried out further investigations by digging a trial hole on the front elevation of the property and carrying out a CCTV survey of the drains. In March 2023 the results of the trial hole were received by UIA and no roots were observed.

On 31 March 2023, UIA wrote to Mr and Mrs M to say it had decided to accept the claim, it would be carrying out further investigation and excavation work on the drains, and once the drainage repairs were completed it could proceed with repairs to the property and its surveyor would provide a detailed list of repairs. UIA also said in this letter while at the property it had noted damage to the external render crack on the extension, and instability of the neighbouring property and that damage related to either would not be covered under Mr and Mrs M's policy.

Following this letter, UIA carried out repairs to the drains. But in June 2023 UIA noted there was continued instability to one of the adjoining neighbouring properties which was affecting the stability of Mr and Mrs M's property and which was being caused by a tree subject to a Tree Preservation Order ('TPO').

Over the course of the following months, UIA continued level monitoring and tried to assist in getting the TPO removed.

In October 2024 UIA held a meeting at the property which included Mr and Mrs M. It was discussed in this meeting that the adjoining properties had now been deemed stable and restoration works completed on them. So, UIA said it thought Mr and Mrs M's property was now ready for repairs. Mr and Mrs M were still concerned that their property may be moving though, so UIA agreed to carry out a further three months of level monitoring.

After this meeting, UIA provided Mr and Mrs M with a revised scope of works which set out the damage it agreed to cover, along with damage it didn't agree to cover.

Mr and Mrs M complained about the damage which UIA hadn't agreed to, and UIA provided a final response to the complaint in February 2024. In this final response, UIA set out again which areas of damage it didn't agree to cover and said this was because it didn't consider it to have been caused by subsidence.

However, it offered Mr and Mrs M £250 compensation due to a four month delay in it obtaining a quote for a root barrier.

Dissatisfied with this response, Mr and Mrs M referred their complaint to us. One of our investigators considered the complaint and didn't find UIA had responded unfairly. She said UIA had provided expert opinion from its surveyor which she was satisfied reasonably showed the damage UIA hadn't agreed to cover wasn't caused by subsidence and Mr and Mrs M hadn't provided any of their own expert opinion to show otherwise.

She also said the adjoining neighbouring property was suffering subsidence caused by the tree with the TPO, but because no roots were found below Mr and Mrs M's property she didn't think this tree was responsible for causing subsidence damage to Mr and Mrs M's home, and instead, the damage was caused by lateral movement of the neighbouring property.

The investigator considered if the £250 compensation UIA offered was fair, finding that it was because although there was a delay in UIA getting quotes for the root barrier works, it didn't otherwise directly delay the claim since UIA were still waiting for the neighbouring property to be stable and for the council to agree to the TPO at the time this quote was being sought.

Mr and Mrs M responded disagreeing with the investigator's opinion. The investigator considered Mr and Mrs M's responses, but her opinion on the complaint remained the same. And because Mr and Mrs M still didn't agree, the complaint was referred 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.

Having done so, while I understand Mr and Mrs M will be disappointed, I find UIA has already offered to resolve this complaint in a fair and reasonable way, so I won't be requiring it to do anything more. I'll explain why.

I should start by saying while I've read and considered everything Mr and Mrs M and UIA have provided, I won't be commenting on every point made. I'll instead concentrate on what I consider are the key points I need to think about for me to reach a fair and reasonable decision. This isn't meant as a discourtesy to either party, but instead reflects the informal nature of this Service.

I've begun by reviewing the terms and conditions of Mr and Mrs M's home insurance policy. The policy is perils based, which means that loss or damage to the buildings is only covered if it's caused by one of several specific defined insured events set out in the terms such as fire, theft or storm. If the cause of the loss or damage isn't one of the insured events listed in the policy terms, it is not covered.

Subsidence, or heave of the site, or landslip are one category of defined events covered under the buildings section of Mr and Mrs M's policy. While these are grouped together in the policy terms, subsidence, heave and landslip are operationally different types of ground movement.

The policy doesn't provide a specific definition of what subsidence is. But in the absence of that, I think it's reasonable to apply the commonly understood meaning of it being downwards ground movement.

UIA doesn't dispute there was some subsidence damage to Mr and Mrs M's home. It wrote to them on 31 March 2023 to say their "*subsidence claim had been accepted*". It subsequently carried out repairs to the drains, which it considered was the cause of that subsidence damage. And it produced a scope of works which included the cost of rectifying damage to the interior hall, stairs, two bedrooms and the kitchen, which it deemed to have been caused by this subsidence.

But it also excluded from the claim other areas which it didn't find to have been related to that subsidence, including damage to the interior of several rooms, and some external defects. It informed Mr and Mrs M in the claim acceptance letter of 31 March 2023 there were defects which it had noted during its inspection which it didn't consider were caused by subsidence or any other peril covered by the policy and later set out exactly which defects it wasn't going to cover in its revised scope of works.

UIA attributed damage to the bathroom, lounge and one of the bedrooms to lateral movement from the adjoining property. Mr and Mrs M said that given their home is part of the same overall structure as their neighbours, if their neighbours property was found to have been damaged by subsidence from the tree which had the TPO, then their home should similarly have been treated by UIA as having suffered subsidence damage caused by the tree.

It isn't in dispute that Mr and Mrs M's property was at risk of instability because of this tree. But the question this raises is whether the tree itself was directly causing subsidence to Mr and Mrs M's home, or whether it was only the adjoining property this tree was directly affecting with subsidence, but the effect it was having on this adjoining property was exerting forces on Mr and Mrs M's home and damaging it that way.

On balance though, I don't think it's been shown subsidence from the tree was the cause of damage to Mr and Mrs M's home for any of defects which UIA didn't cover. And I think the possibility was reasonably considered by UIA given that it carried out a trial hole. But it didn't find any roots from this under Mr and Mrs M's property indicating it wasn't causing subsidence directly to their home. And I don't think Mr and Mrs M have provided anything more showing this tree was directly causing subsidence to their home, rather than just to their neighbours, which in turn was pulling on their home through the party wall.

So, I think lateral movement from the adjoining property likely caused some of the damage. But I don't find damage caused by lateral movement of adjoining property to be the same as damage caused by subsidence.

Ultimately, unless the tree likely would have caused the same damage to Mr and Mrs M's home from subsidence if their home hadn't been joined to another property through a party wall, I think there was a break in the chain of causality. But I don't think it has been shown subsidence caused by the tree, rather than forces exerted on the property from the adjoining property caused the damage.

Regarding the other defects to the exterior of the property and the conservatory, I've considered the comments and evidence provided by both parties. On balance though, I'm not persuaded UIA unfairly determined this damage wasn't subsidence related as it has relied on its surveyor to determine this. And although I've considered Mr and Mrs M's comments, they have not provided any evidence from an expert of their own which shows this damage was subsidence related.

UIA said the areas of damage it declined to cover were because it did not think these areas were caused by subsidence. And having considered the evidence, I don't find it to have unfairly decided this.

However, Mr and Mrs M's policy also included cover for accidental damage, and I don't think UIA has shown it considered whether any of the damage it didn't cover as subsidence would be covered under the accidental damage section of cover. I make no finding in this decision on whether any of this damage should be covered under the accidental damage section of the policy. But Mr and Mrs M may wish to ask UIA to review if it would cover the damage under the accidental damage section of their policy.

Lastly, I've considered if the £250 compensation UIA offered for the delay in obtaining a quote for a root barrier was fair and reasonable. Given the difficulties in having the TPO removed, a joint root barrier was at one point being considered to aid in stabilising Mr and Mrs M's home. Looking through the timeline of events on the claim though, on balance I don't think the delay in obtaining this quote caused an avoidable delay which negatively impacted Mr and Mrs M. I say this because while this was happening, level monitoring was still taking place along with the application for the TPO to be removed, which I think were the main factors at the time influencing the duration of the claim.

My final decision

UIA (Insurance) Limited has offered to compensate Mr and Mrs M £250 for a delay in obtaining a quote for a root barrier, which I find to be fair and reasonable in all the circumstances. So, my final decision is that if it has not done so already, I require UIA (Insurance) Limited to pay Mr and Mrs M £250.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 12 September 2025.

Daniel Tinkler
Ombudsman