

The complaint

Mr O complains about Aviva Insurance Limited's handling of a subsidence claim made under his building insurance policy.

Any reference to Aviva includes the actions of its agents.

What happened

Mr O holds a building insurance policy with Aviva. In November 2020, he made a claim after noticing cracks in his home. Aviva assessed the claim and accepted there was subsidence. It was thought the main cause of this was a nearby tree, though there were also issues identified with the drains.

The local authority owns the tree, and they refused to have it cut down. Aviva arranged drain repairs and carried out monitoring. Whilst there was some ongoing movement, Aviva thought this was within acceptable limits, and so wanted to carry out repairs.

Mr O complained to Aviva about its handling of his claim. He wanted the cause of the subsidence to be addressed before repairs took place, and was unhappy with how long the claim had taken and the inconsistent information he'd been given.

Aviva issued its final response on 22 August 2024 and agreed there had been avoidable delays made with the claim. It offered Mr O £800 compensation for this. Unhappy with this, Mr O brought a complaint to this service.

Aviva then offered Mr O a further £150 compensation (£950 in total) for some customer service issues that had occurred after it had issued its final response. Mr O didn't accept this offer of compensation. He then arranged for two structural engineers to carry out inspections and provided their findings to Aviva and this service.

I issued a provisional decision on 17 July 2025. Here's what I said:

'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.'

After Mr O initially made the claim, Aviva's loss adjuster thought a large tree to the front was the primary cause of the subsidence. This conclusion was reached without any ground investigations.

An arborist report was obtained in April 2021. The report made it clear it was written based on their understanding that the loss adjusters were satisfied the damage was the result of clay shrinkage due to nearby vegetation. The arborist report said that a Plane (London) tree was the dominant feature close to the area of movement, and so they identified it as the primary cause of the subsidence damage. Though they also said the property fell within the rooting distance of additional vegetation. They recommended the Plane (London) tree to the front of the property be removed, and also made some recommendations about the other vegetation that they thought could present a risk of future damage.

The Plane (London) tree is owned by the local authority. According to Aviva's timeline, it first wrote to the local authority in late September 2021. It's not clear to me why it took five months after the arborist's report for Aviva to take action.

The loss adjuster arranged for a drainage inspection to take place in June 2021. The report confirmed there was structural damage to two nearby pipes (drain runs A and B). The report said that responsibility for drain run A fell to the local water authority.

Given that there was damage to nearby drains/pipes, this may well have been leaking water into the subsoils and contributing to the subsidence.

The local water authority advised Aviva in September 2021 that they weren't responsible for drain run A. It seems drain run B was repaired in November 2021. I see that further correspondence was sent between Aviva and the local water authority, and in mid-2022 Aviva thought that Mr O's neighbour was partly responsible for drain run A. They were asked to contribute to the cost of drainage repairs. It's not clear to me which third party ended up being responsible for drain run A, but I understand the repairs took place in August 2023.

Aviva has pointed out that it wanted to carry out repairs to the property in 2022, but Mr O wouldn't allow it to do so. I think Mr O's refusal was entirely reasonable. The Plane (London) tree hadn't been removed, and the drains hadn't been repaired. Therefore, the two likely causes of subsidence hadn't been addressed.

I've looked at the level monitoring results. Data was taken from February 2021 until December 2021, and then again from August 2023 until July 2024. This showed movement of between around 5mm and 12mm based on the various level monitoring points. After the drains were removed, there was movement of around 7-8mm.

Aviva has referred to a paper written by an expert in level monitoring and says this expert concluded that movement of less than 15mm was unlikely to warrant tree removal. Based on the information Aviva has provided to us about this, I would agree. But the information also does indicate that when there's movement of between 5mm and 15mm in a 12-month period (which is the case here) then tree management is essential.

So, I don't agree with Aviva that the monitoring results show that repairs can be carried out without any action being taken to the tree. Also, if the cause of the subsidence isn't addressed, then it's likely that further subsidence damage will just occur again because of this tree when there is a hot, dry summer.

The difficulty here is that the tree is owned by the local authority, and therefore management of the tree (such as pruning for example) cannot take place without their permission. Though it's also the case that the arborist explained that pruning is a largely ineffective means of controlling water uptake in trees deemed to be causing structural damage. Which is why they had recommended that the tree be removed.

Mr O arranged for his own structural engineer (Mr A) to carry out an inspection in August 2024. Mr A agreed with Aviva that the crack damage indicated subsidence damage, but said that to understand the cause of this, further investigations were needed including foundation trial pits and boreholes with soil tests.

I would have expected these investigations to take place at the start of the claim (known as a geotechnical survey). I see that Aviva had intended to do so, but says it wasn't done due to staff sickness. Whilst I appreciate the visit that had been arranged for 18 February 2021 couldn't take place due to staff sickness, it should have been rearranged.

As a result of Mr A's recommendations, Aviva did then arrange for a geotechnical survey. This took place in October 2024 (nearly four years after Mr O made the claim). The report found no water strikes, but did find tree roots below the foundations at both the front of the property and the rear. At the front of the property, the Plane (London) tree roots were found, as Aviva suspected. And at the rear of the property, the roots of sycamores were found. Two sycamore trees had been identified in the arborist's report as potentially presenting a future risk.

As this evidence supported that the Plane (London) tree was causing the subsidence damage to the front of the property, Aviva has approached the local authority again to try and arrange removal of the tree. I understand the current situation is that Aviva is still awaiting the local authority's response. Though it seems to me that Aviva's actions in continuing to try and have the tree removed do call into question its stance that the ongoing movement isn't significant, and that repairs can take place without the cause of the subsidence being addressed.

Up until this point, Aviva had only considered there to be subsidence damage to the front of the house (as well as the dining room, hallway, master bedroom, and another bedroom). Consequently, it had only considered the Plane (London) tree at the front of the property as the cause of the subsidence. However, Mr A said he thought the back of the property had subsidence cracks at the back bedrooms on the upper floor.

The loss adjuster initially said Mr A had identified potential subsidence damage to the rear of the property. The loss adjuster thought there were two distinct areas of damage and potentially two different causes and therefore should be dealt with as two separate claims.

However, Aviva's loss adjuster later inspected the damage (it's not clear if this was in person or via video link) and concluded the damage to the rear of the property was wear and tear, lack of maintenance and thermal movements within the property rather than subsidence.

After our investigator issued her findings on this complaint, Mr O arranged for another structural engineering firm (Company T) to carry out a structural survey and take into account the available evidence (arborist report, geotechnical survey, and monitoring results). The inspection took place in May 2025. They listed the damage observed, which included: - various cracks throughout the property (including to the rear), the basement slab showed signs of movement, the rear extension slab showed signs of movement, the rear door didn't close, there was separation of tiles in the ensuite, and the rear window wouldn't close properly.

Company T concluded there was movement to both the front and rear of the building, and thought the nearby vegetation was causing this due to its effect on the clay soil (as tree roots were found in all three trial pits). They recommended that once the work to the vegetation had been completed as recommended in the arborist report, then further monitoring should take place to check if the movement has stopped. They said if movement continued, then more extensive works may need to be considered.

So, two structural engineers (Mr A and Company T) consider the damage to the rear of the property to be subsidence damage. Aviva's loss adjuster is also a structural engineer, but he disagrees that there's subsidence to the rear. He said that the differential movement is approximately 3mm and thinks the damage is wear and tear and lack of maintenance. Despite this, Aviva have since said they want to carry out further monitoring to the rear of the property.

As there are two experts that have concluded that the damage to the rear is likely

subsidence (and Company T had reviewed the monitoring reports), I'm minded to place greater weight on their opinions. Tree roots were found below the foundations to the rear of the property, and therefore we do have a cause of subsidence. I also note that Company T's observation regarding the rear door to the garden not opening or closing properly was a new occurrence, and they thought this supported that there had been recent movement to the rear of the property. Given how long the claim has been ongoing and that monitoring has happened over a fairly lengthy period, I can understand Mr O's reluctance to allow further monitoring to happen before any action is taken to address the cause of the subsidence.

I'm therefore persuaded by Mr A and Company T's findings, and so I intend to require Aviva to accept the damage at the rear of the property as subsidence damage.

I've noted the loss adjuster's view that any subsidence damage to the rear ought to be treated as a separate claim. If there were evidence that the damage to the front and the damage to the rear happened at different times and were clearly separate causes (different trees), then I might say it would be reasonable for Aviva to treat them as two claims and charge two excesses. However, from what I understand, the initial damage wasn't only to the front of the property and was instead evident throughout the house. Therefore, it seems we're not able to differentiate between the damage to the property caused by the Plane (London) tree to the front and the damage caused by the sycamores to the rear. So, in these circumstances, I think Aviva should treat the damage as one claim.

Company T's recommendation was that further monitoring should take place once the arborist's recommendations have been complied with. However, I don't agree with this recommendation, and I'll explain why.

I think Aviva needs to take action in respect of the movement to the front of the property caused by the Plane (London) tree. It's not in dispute there's subsidence damage to this part of the property and the parties are in agreement the main cause is this tree (though the drains may have contributed previously). It's been over four years since Mr O made his claim, and Aviva has had sufficient opportunity to try and persuade the local authority to remove the tree. So, I intend to require Aviva to now consider alternative solutions to stop the movement to the front of the property caused by this tree. If Aviva wishes to try and claim those costs back from the local authority, it can of course do so.

With respect to the damage to the rear, the arborist's report from 2021 had identified two sycamores at the rear of the property (the tree roots found below the foundations to the rear of the property were from sycamores). The report recommended one of these trees (owned by Mr O) needed to be maintained at broadly current dimensions, and the second (owned by a third party) should have the crown reduced by 30% and then re-pruned every three years. Though these recommendations were made as a precaution - the geotechnical survey hadn't been done at that point, and so the arborist didn't know the sycamore roots were below the house's foundations. Given that the arborist had made it clear that pruning isn't an appropriate solution when a tree's roots affect the structure of a property, I think it's likely they would have concluded these trees needed to be removed if they knew they were causing subsidence damage.

As Mr O owns one of the sycamores, I think Aviva should pay to have this tree removed. As the second sycamore is owned by a third party (I assume this is a neighbour, since the arborist report had stated where a tree was owned by the local authority), then I intend for Aviva to contact the neighbour and try and obtain their agreement to have the tree removed. If Aviva can't obtain this agreement within a reasonable length of time, I would expect Aviva to consider taking other action. That might involve a further period of monitoring to see what affect the removal of Mr O's sycamore has had on the movement of the property, but

ultimately, if the property is found to still be moving then Aviva would need to consider an alternative solution to stop the movement.

Mr A's visit has had an impact on this claim, as it prompted Aviva to arrange the geotechnical survey which has provided useful information to advance the claim. I've noted Aviva's argument that it only arranged the survey to assist in recoveries against the local authority, but I think it's clear that it did this following Mr A's reasonable recommendation. I therefore intend to require Aviva to reimburse Mr O for the cost of Mr A's initial inspection, plus interest.

I also think both Mr A and Company T's inspections have affected the outcome of this claim, as they have persuaded me that there is subsidence to the rear of the property. I therefore also intend to require Aviva to reimburse Mr O for the cost of Company T's report, plus interest.

I understand Mr O has paid a contractor to carry out temporary repairs to the property to make it safe (securing the rear door and window). I intend to require Aviva to reimburse him for this, plus interest.

Aviva has already accepted that its handling of the claim has been poor and had offered Mr O total compensation of £950. For completeness, I would agree. In my opinion, Aviva failed to carry out appropriate investigations at the outset and has caused unnecessary delays throughout the claim. It has also contradicted itself throughout the claim and caused Mr O confusion and frustration. We're approaching five years since Mr O made the claim and yet are not much further forward in terms of addressing the cause of the subsidence. This has caused Mr O significant worry and distress and has prevented him and his wife from remortgaging their property. This has led to their mortgage payments significantly increasing to an unaffordable amount which unfortunately has meant they are in mortgage arrears and have the worry of their home being repossessed.

I recognise of course that Aviva isn't responsible for the subsidence, and these claims can take some years to progress even if everything goes according to plan. So, whilst Aviva cannot be held responsible for everything that has happened with Mr O's mortgage, if the claim had been handled well from the outset, they may have had the cause of the subsidence addressed and repairs started by this point. Taking this into account, I intend to award Mr O total compensation of £2,500.'

I asked both parties for any further comments they wished to make before I reached a final decision.

Aviva responded to say it accepted my provisional decision.

Mr O thanked me for my provisional findings and provided the following main points:

- He would like an alternative solution to be applied to both the front and rear of the property.
- The current approach I've suggested means that putting right the subsidence damage to the rear of the property will be delayed by uncertain neighbour negotiations and a removal-based remedy. He thinks the property ought to be treated holistically as a single structural system, and that addressing the front and rear differently risks long-term imbalance and instability. He has provided further comments from Company T in support of this.
- He would like independent oversight of all structural repairs and decisions and wants Aviva to involve an independent structural engineer in approving any mitigation

scheme. He says that's because he's lost confidence in Aviva due to its handling of the claim up to this point.

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.

Mr O says he would like an alternative solution to be applied to both the front and rear of the property. In support of this, he's provided a short email from Company T which made the following two points:

- *The remedial works and engineering design solution for both the front and rear movement should be designed with a holistic approach, so that it addresses movement and how the building responds as a whole post the remedial works.*
- *The removal of the tree which may remove the cause of the movement should be taken into account the potential for heave of the soil, upwards movement of the soil on buildings, note that this may affect neighbouring buildings and not just the insured. Note that active management of the tree may not produce the desired solution and consulting a tree specialist on this would be advisable.*

I've considered Company T's points, but I'm not persuaded it's necessary for Aviva to arrange an alternative solution to tree removal to address both the front and rear subsidence at this point. I say this because the subsidence to the rear is apparently being caused by the sycamore trees, and therefore this would likely be resolved by the removal of those trees. Whilst tree removal can occasionally cause heave, this is unusual, and I'm not persuaded it would be a reason *not* to remove the trees. An alternative to the tree removal would likely be an engineering solution, which can be disruptive and expensive.

In these circumstances, I still think it's fair for Aviva to try and remove the trees to the rear of the property to see if this resolves the movement there before considering an alternative solution to address the subsidence to the rear.

In my provisional decision, I explained that I thought Aviva ought to consider an alternative solution to stop the movement to the *front* of the property and implement this. It may be that when considering alternative solutions for the front of the property, Aviva could decide to do as Company T has suggested and design a solution for the property as a whole. Though as no consideration has yet been given to alternative solutions, I won't make a finding on this here.

Mr O wants Aviva to arrange for an independent specialist to oversee the alternative solution. This is because he's lost confidence in Aviva due to its previous poor handling of the claim. He's provided some information to support his assertion that there were contradictions in Aviva's handling of the claim, though I had already accepted in my provisional decision that Aviva had contradicted itself throughout the claim.

However, I don't think it's necessary for me to require Aviva to arrange for someone independent to oversee the alternative solution. I would expect Aviva to arrange for a suitably qualified expert to consider the site before making any decision on an alternative solution. Depending on the complexity of this, it may end up arranging for an independent specialist to design and oversee the solution anyway. But that will be up to Aviva.

It's also the case that Mr O can arrange for his own expert to consider any alternative solution that Aviva puts forward. I understand Mr O has already confirmed to Aviva that he doesn't want any work to take place without receiving guidance from his structural engineer. Though Mr O would be responsible for his own structural engineer's fees.

Mr O has let me know that he's received notice of a repossession hearing that will take place soon, which has caused him and his wife a great deal of worry. I'm sorry to hear this, though as I explained in my provisional decision, I don't find that Aviva can be held responsible for everything that's happened with Mr O's mortgage. Though I do think that if the claim had been handled well then repairs would have likely started by now. I'm therefore still satisfied it's appropriate to require Aviva to pay Mr O £2,500 compensation.

Mr O has asked me to engage with Aviva to secure an immediate remedial timetable. I understand Aviva has already been in touch with Mr O regarding the removal of the trees to the rear. Aviva won't be able to put together a timetable for the repairs until it has considered an alternative solution to the front of the property. Though I would expect it to start work on this within four weeks of Mr O's acceptance of this final decision.

My final decision

My final decision is that I uphold this complaint. I require Aviva Insurance Limited to do the following:

- Consider alternative solutions to stop the movement to the front of the property and implement this (assuming it has Mr O's agreement to do so) before carrying out superstructure repairs.
- With Mr O's agreement, remove the sycamore tree owned by him.
- Contact Mr O's neighbour who owns the second sycamore tree and try and obtain their agreement to have the tree removed. If Aviva can't obtain their agreement within six months, it should consider an alternative solution (assuming there is still ongoing movement after the sycamore owned by Mr O has been removed).
- Reimburse Mr O for the cost of Mr A and Company T's inspections. Interest should be added at the rate of 8% simple per annum from the date each invoice was paid to the date of settlement*.
- Reimburse Mr O for the cost of making safe the door and window. Interest should be added at the rate of 8% simple per annum from the date the invoice was paid to the date of settlement*.
- Pay Mr O £2,500 total compensation**.

*If Aviva considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr O how much it's taken off. It should also give Mr O a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

**Aviva must pay the compensation within 28 days of the date on which we tell it Mr O 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 Mr O to accept or reject my decision before 24 September 2025.

Chantelle Hurn-Ryan
Ombudsman