

## **The complaint**

Ms F and Mr B complain that Liverpool Victoria Insurance Company Limited (LV) declined a claim they made under their home insurance policy.

LV is the underwriter of this policy i.e. the insurer. Part of this complaint concerns the actions of its agents. As LV has accepted it is accountable for the actions of the agents, in my decision, any reference to LV includes the actions of the agents.

## **What happened**

In mid-2024, Ms F and Mr B made a claim under their home insurance policy with LV for damage to their kitchen. The floor was cracking and dipping in the middle which was impacting their kitchen cabinets. Ms F and Mr B believed that the issue was caused by a mains foul water drainage system that was found to be leaking in 2023. Their neighbours had informed them that their insurer had accepted a claim for damage to their property as a result of this issue.

LV arranged for a site visit, which took place in August 2024. The surveyor concluded that there was no cover under the policy. He concluded that there was no evidence of active subsidence. While there was a disturbance to the floor, there was no evidence of subsidence to the external walls of the main house or extension. Ms F and Mr B's claim was declined based on a policy exclusion.

After Ms F and Mr B asked LV to reconsider their claim, it arranged for another surveyor to visit the property in February 2025. The surveyor also concluded that the damage wasn't covered under the terms of the policy. So, LV advised Ms F and Mr B it was unable to be of further assistance.

Ms F and Mr B said they wanted their claim to be considered under the escape of water section of the policy. LV arranged for a leak detection survey and a drainage survey to take place. Some defects were found in the drainage, but LV concluded this wasn't within influencing distance of the kitchen.

Ms F and Mr B felt they had a valid claim because they believed the damage to their kitchen area was caused by the underground leak from their neighbour's property in 2023. They said the reason the areas of the house that were nearest to the leak weren't affected was because they had a block and beam flooring.

LV said it would arrange another site visit. However, it decided not to go ahead with this because further investigation would cause more damage to Ms F and Mr B's home. It felt it had enough information to maintain the claim decline.

Ms F and Mr B raised a complaint. But LV maintained its position regarding the claim. It paid them £150 for some poor customer service.

Ms F and Mr B remained unhappy and asked the Financial Ombudsman Service to consider the matter.

Our investigator didn't think the complaint should be upheld. She was satisfied LV had declined the claim fairly and in line with the policy's terms and conditions. She thought the £150 LV had paid Ms F and Mr B fairly recognised the impact of the customer service issues on them.

Ms F and Mr B disagreed with our investigator's outcome. They said that, according to the Financial Ombudsman Service and ABI's definition of subsidence, their property didn't have this as their foundations hadn't been affected. LV's own report said the damage was not considered to have been caused by subsidence of the site. Their issue was not caused by settlement according to LV's own report. They commented that the policy documents didn't make it clear that the subsidence exclusion was for water leaking from any pipe.

Ms F also commented that she believed LV's exclusion criteria were an example of an unreasonable term that shifts risk unfairly back to the consumer under the Consumer Rights Act (2015).

As Ms F and Mr B disagree with our investigator's outcome, their complaint has been passed 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, I've decided not to uphold Ms F and Mr B's complaint. I'll explain why.

I've considered everything Ms F and Mr B have told our service, but I'll be keeping my findings to what I believe to be the crux of their complaint. I wish to reassure Ms F and Mr B I've read and considered everything they've sent in, but if I haven't mentioned a particular point or piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel I need to reference it to explain my decision. This isn't intended as a discourtesy and is a reflection of the informal nature of our service.

### Claim outcome

When a policyholder makes a claim, the onus is on them to show that an insured event caused the loss or damage. If it's established that an insured event caused the loss or damage, an insurer can decline a claim if it can show an exclusion applies or a condition has been breached.

Ms F and Mr B say the damage to their kitchen was caused by a foul drainage leak which was discovered in 2023 and had since been repaired. They think LV should accept their claim under the escape of water peril.

The policy provides cover for *“water or oil leaking from any fixed tank, domestic appliance or pipe”*.

LV says it can't see any evidence of a current leak or how it would have caused direct damage to the floor. It's referred to an exclusion which says subsidence isn't covered under this peril.

LV says the damage seems to have been caused by a downward movement of the floor, which it considers to be subsidence. It says this means the damage isn't covered under the escape of water peril because of an exclusion which says: *“Subsidence, heave or landslip caused by escaping water, this damage may be covered under the section ‘Subsidence or Heave of the site on which the building stands or Landslip.’*

Ms F and Mr B have commented that the policy terms don't make it clear that subsidence is excluded under water leaking from any pipe because the exclusion is under "*loss of metered water or oil*", rather than directly underneath "*Water or oil leaking from any fixed tank, domestic appliance or pipe*".

However, looking at the wording and layout of the policy document, "*Water or oil leaking*" appears in bold as do the other perils the policy covers. And the subsidence exclusion appears within this section. So, I'm satisfied the terms of the policy make it clear that subsidence isn't covered under the escape of water peril.

LV says the damage also isn't covered under the subsidence section of the policy because of an exclusion which says: "*damage to solid floors and non-load bearing walls unless the foundations beneath the exterior walls of your home are damaged at the same time by the same cause.*"

Ms F and Mr B don't agree that the damage was caused by subsidence. They've commented that one of LV's own reports says the damages were not considered to have been caused by subsidence of the site.

I've carefully considered the information in all the reports that have been shared with me, including the one from the structural engineer instructed by Ms F and Mr B, who visited the property in July 2024.

Ms F and Mr B's engineer noted that the purpose of the visit was to carry out a non-destructive inspection of the ground floor slab within the central kitchen of the property to report on the significance of dropping/dipping of the floor around the kitchen island.

The engineer's opinion was that "*the ridging of the floor finishes, the out of alignment of the kitchen island and the separation cracking between walls and ceiling are a result of slight sagging of the combined Kitchen, Utility and W/C replacement concrete floor slab.*"

He said: "*The sagging of the floor slab could be a result of subsidence of the expected underlying soft silty clay being further softened by leaking drainage or a leaking water main or a result of settlement of the subbase material under the slab due to inadequate compaction.*"

While Ms F and Mr B's engineer didn't reach a firm conclusion about how the damage was caused, it was his opinion that it was likely to be subsidence or settlement.

The report from LV's surveyor who attended in August 2024 includes the comment that Ms F and Mr B have referred to i.e. "*The below damages have been reviewed and are not considered to have been caused by subsidence of the site.*"

However, he also said: "*Whilst we appreciate there has been disturbance to the floor there is no evidence of subsidence to the main house or extension.*"

He went on to say: "*Unfortunately damage to floor slabs are excluded under the subsidence section of your policy unless the load bearing and/or external walls or [sic] damaged at the same time by the same cause.*"

He highlighted the policy exclusion under the subsidence peril which says: "*Damage to solid floors and non-load bearing walls unless the foundations beneath the exterior walls of your home are damaged at the same time by the same cause.*"

I appreciate the wording of the report is a bit unclear. But I don't think the surveyor concluded that the damage wasn't caused by subsidence. Rather, he concluded that the damage wasn't covered under the subsidence section of the policy.

The LV surveyor who visited the property in February 2025 reached the same conclusion as the previous surveyor. The report says:

*"The damage is solely located to the internal kitchen floor slab, along with cracking around the non-load bearing stud partition walls built off the kitchen floor. There is no damage evident to the external walls of the property. As per page 5 of the policy wording, damage to solid floors and non-loading [sic] bearing walls is excluded from cover unless the foundations beneath the exterior walls of the home are damaged at the same time by the same cause."*

Ms F and Mr B have referred to wording on the Association of British Insurers (ABI) website which says subsidence is when the ground beneath a building sinks, pulling the property's foundations down with it. Ms F and Mr B say the damage to their property isn't subsidence because their foundations haven't been impacted.

The information from Ms F and Mr B's own surveyors suggests that the issue was likely to be due to the ground bearing concrete slab beneath the kitchen area sagging. My understanding is the concrete slab is a type of foundation. So, I'm not persuaded, from what I've seen, that the foundations weren't impacted.

In any event, LV has defined subsidence in the terms and conditions as "*downward movement of ground other than by settlement*". So, I'm satisfied it gave Ms F and Mr B clear information about what it considers to be subsidence.

I appreciate Ms F and Mr B believe that the damage should be covered under the escape of water peril, but all of the expert evidence I've seen points to it being caused by a downward movement of the ground. According to the terms of the policy, this could only be subsidence or settlement. Settlement isn't covered by the policy. And there's no evidence to suggest that there was damage to the foundations beneath the exterior walls of Ms F and Mr B's home. So, I think it was reasonable for LV to conclude that the damage wasn't covered by the policy.

I can understand why Ms F and Mr B feel LV's decision to decline their claim was unfair. However, an insurer is entitled to decide what risks they want to insure as long as it makes it clear in the policy's terms and conditions.

I'm satisfied LV clearly set out the relevant policy exclusions in the terms and conditions. Most policies exclude subsidence under the escape of water section. It's also not unusual for a policy to exclude subsidence damage which has only affected the floor and/or non-load bearing walls. In this case, it seems likely that the kitchen area was more vulnerable to subsidence than other areas of the property because it was above a ground-bearing concrete slab. So, I think LV's decision to decline Ms F and Mr B's claim was fair and reasonable.

### Discrimination

Ms F has also raised concerns that LV has discriminated against her because she is a woman. She says she was dismissed by LV, she wasn't referred to in any emails, emails were ignored, and she was talked over in telephone calls.

The Equality Act 2010 says a person must not be treated less favourably because of their sex. Our service doesn't have the power to decide if the Equality Act 2010 has been

breached. Only a court can do that. But I've taken the act into account when deciding whether LV has acted fairly and reasonably – given that it's relevant law.

LV has apologised that Ms F wasn't included in the emails. It says it wasn't its intention to cause any upset. It's also commented that its system-generated letters are typically addressed to the policyholder, which may have contributed to the oversight in addressing only Mr B. I think that's a reasonable explanation.

I've listened to a call recording from April 2025 in which LV's claims handler informed Ms F and Mr B that their claim would remain declined. The claims handler interrupted and talked over Ms F several times during the call. So, I can understand her frustration here. However, he also talked over Mr B, so I don't think Ms F was singled out because she was a woman. But I do agree there was some poor service here and that she and Mr B were treated unfairly.

#### Distress and inconvenience

LV has acknowledged some poor communication and a delay in confirming Ms F and Mr B's claim outcome. It informed them that site investigations would be done in mid-April, but around two weeks later it told them it felt it already had enough information to maintain its decline.

I've explained why I don't think LV's decision to decline Ms F and Mr B's claim was unfair. I think it did cause them some unnecessary frustration and inconvenience because of its poor communication, including how its claims handler spoke to them over the phone. However, I think the £150 LV has already paid Ms F and Mr B reasonably recognises the impact of its poor service on them. So, I haven't awarded any further compensation.

I appreciate my answer will be disappointing for Ms F and Mr B, but I think LV's decision to decline their claim was fair and reasonable, in line with the policy's terms and conditions.

#### **My final decision**

For the reasons I've explained, I don't uphold Ms F and Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Ms F to accept or reject my decision before 10 December 2025.

Anne Muscroft  
**Ombudsman**