

## The complaint

Mr and Mrs M complain about how Aviva Insurance Limited have handled their subsidence claim.

## What happened

Mr and Mrs M have been represented in their claim and complaint at various stage, but for ease of reading, I'll refer to them throughout.

Mr and Mrs M have buildings and contents insurance for their home with Aviva.

In 2022 Mr and Mrs M instructed a structural surveyor to advise on crack damage they'd noticed in their home, which had been getting worse over time.

The surveyor provided a report to Mr and Mrs M in August 2023. This details the damage noted throughout the property, both internally and externally. Monitoring was installed on 11 November 2022 to the significant areas of crack damage. Between November 2022 and August 2023, this was said to indicate upward movement taking place, not enough to restore the building to its original level but leading to closing of some damage.

The report said that the upward recovery of the property, when viewed in the context of clay of high plasticity, was a good indicator that the damage was a result of foundation movement due to volumetric change of the soil influencing and reducing ground moisture in the area.

Further investigations were said to be required, but the surveyor thought that vegetation adjacent to the left side of the property was implicated. And that to prevent further movement enhancements of the foundations might be required.

Having considered this report Mr and Mrs M submitted a claim for subsidence to Aviva in October 2023, which was accepted in November 2023.

Aviva instructed loss adjusters to investigate the claim and they appointed one of their subsidence specialists. A site visit was carried out on 11 January 2024 with Mr and Mrs M, their structural engineer and the subsidence specialist in attendance. Following this meeting the subsidence specialist wrote to Mr and Mrs M on 16 January 2024 saying that the damage was indicative of downward and rotational movements to the rear right hand corner of the two storey extended garage and damage to the front left hand corner of the extension.

The following details of the damage were noted: -

Externally to the rear and right

- Separation to the brick course at damp proof course (DPC) level to the right of the garage tapering to the rear from the front and returning to the corner.
- Diagonal cracking from the soldier detail course to the right side down to DPC.
- Diagonal cracking from the front windowsill, upwards from the centre of the lintel over the garage doors.

- Separation cracking to the front left at the extension and main property abutment.
- Stress cracking at the right bearing point of the lintel over the garage doors.
- Spalling and wash away to the brickwork below DPC to the rear elevation. Efflorescence visible to all 4-5 brick courses below DPC.
- Separation cracking to the rear extension and main property abutment only over and above the soldier detail course.

#### Externally to the front and left

- Separation cracking to the left of the kitchen lean-to, the rear extension and main property abutment.
- Diagonal cracking above the upper left of the door to the left extension, up to the fascia.
- Sagging to the centre of the lintel over the two rear patio doors.

#### Internally

- Majorly to the landing at the junction of the two storey extension and the main house.
- Various cracking from 1-5mm noted in 4 bedrooms, lounge, kitchen and utility.
- Separation of the abutments including the concrete floor from the utility extension and the main house.

The pattern and type of cracking was said to suggest the damage had resulted from subsidence of the site. The most likely cause being shrinkage of the underlying soil due to seasonal variations in moisture content. And that this may have been exacerbated by moisture extraction by the roots of vegetation in their garden and on the neighbouring property.

The subsidence specialist said that he believed there was evidence of subsidence damage but this was subject to further investigation before Aviva's liability could be confirmed. So he'd be arranging site investigations to consider the claim further, and this would likely take two to three months.

A Geotechnical survey was arranged and the report is dated 25 January 2024. The initial investigations suggested there might be two separate causes of the damage. Tree related movement affecting some areas and drainage issues affecting other parts of the property.

Further investigations were considered necessary so in April 2024 a drainage company and an arboriculturist were instructed.

The arborist's report is dated 17 May 2024. The report's recommendations are said to be preliminary and given on the basis that site investigations confirm that vegetation is the cause of the subsidence damage to the property.

Subject to this the report recommends removal of a silver birch tree in Mr and Mrs M's garden and a group of mixed species trees situated on a neighbouring property. The report also recommends the management of further vegetation, reducing its current size and ensuring that it's maintained at this level.

Unhappy with how long the initial investigations were taking Mr and Mrs M raised a complaint in June 2024, CER/1307585/24. Aviva replied to this on 23 July 2024 but didn't uphold the complaint. They acknowledged that things had taken longer than Mr and Mrs M would have liked but concluded that the investigations formed a necessary part of the claims process.

The initial drains report was inconclusive and Aviva arranged a further one. Following this drainage repair work was carried out. Mr and Mrs M felt that this was just to show something was being done, but ignored the real issue, the damage to their house.

Mr and Mrs M remained unhappy about the progress of their claim and the level of communication and raised a further complaint on 20 December 2024, CER/1404511/24. Mr and Mrs M then complained to our service in January 2025.

Aviva responded to Mr and Mrs M's further complaint on 21 February 2025. They accepted the service Mr and Mrs M had received since their initial complaint had fallen short of what they'd expect, they apologised and offered £300 compensation but said not all the delays were within their control. Mr and Mrs M didn't accept Aviva's offer.

Mr and Mrs M raised a third complaint, CER/1491391/25 about Aviva failing to share its site investigation report with them, further delays and lack of progress since their last complaint.

Aviva responded to this complaint on 19 June 2025 but didn't uphold it. They said they'd previously shared the report with Mr and Mrs M multiple times. And they attributed the further delays to Mr and Mrs M's surveyor who they said had been asked for level monitoring data several times, but this was slow coming, incomplete, irregular and not in the format required.

Our investigator then considered the case. He said he'd consider events until 19 June 2025 when Aviva issued their final response to Mr and Mrs M's last complaint. If Mr and Mrs M were unhappy about anything that had happened since he said they'd need to complain to Aviva in the first instance.

He said when looking at complaint's about delays, we look at whether the delays complained about were within the insurer's control. And if they were we'll consider what steps need to be taken to put things right. He also noted that we have no direct technical expertise in relation to buildings and rely on the expert evidence obtained by the parties when forming an opinion and considering policy terms.

He noted that Mr and Mrs M want Aviva to underpin their property. He said that this is one way to address subsidence, but it's not the only solution. Insurers will generally seek to resolve subsidence through less invasive measures where possible, such as drainage repairs or removal of implicated vegetation. He said we see nothing wrong with this approach, provided an effective and lasting repair can be achieved. And an insurer's liability is to put the insured property back in its pre-peril condition, it doesn't have to future proof it.

Our investigator then considered each of Mr and Mrs M's complaints.

CER/1307585/24

He said Aviva received the claim on 24 November 2023. He was satisfied that the claim progressed well at first with a site inspection on 11 January 2024 and a geotechnical report completed on 25 January 2024. Two separate causes of the damage were suspected from the outset, but drainage and arboriculturists investigations weren't instructed until 10 April 2024. He accepted that these further investigations were necessary but wasn't persuaded they were handled as proactively as they should have been.

Aviva received the initial drains report on 12 June 2024 which was inconclusive due to obstructions and a further survey was required. A revised report was received by Aviva on 15 July 2024. Our investigator said this couldn't have been avoided.

While he accepted some delays in this period were outside Aviva's control, he felt Mr and Mrs M's complaint was justified as Aviva could have been more proactive at times and he felt £150 compensation was fair.

CER/1404511/24

Our investigator said that Aviva reviewed the revised drainage report and on 25 July 2024 instructed the drainage company to survey all the drains to the left-hand side of the property. Mr and Mrs M contacted them on 14 August 2024 as they hadn't received an update. They were told Aviva were still reviewing the drainage report and had requested level monitoring readings from their surveyor. Aviva also instructed underground services to attend and clear any obstructions in the pipework.

Mr and Mrs M provided the monitoring data Aviva had requested on 27 August 2024. They asked to speak to the subsidence specialist to get a clear understanding of what was happening with their claim.

On 24 September 2024 Aviva told Mr and Mrs M they were still looking into things and further information was required. Aviva received the revised drains report on 30 September 2024 but this wasn't reviewed for some weeks. And Mr and Mrs M still hadn't heard from the subsidence specialist.

On 16 December 2024 Aviva carried out a technical appraisal of the investigations to date and the reports they'd received. They noted that the soil readings showed no desiccation, root activity appeared minimal and any drainage issues had been resolved. But monitoring remained incomplete. The information obtained by Mr and Mrs M's surveyor was noted to be missing a datum point and was locked in a PDF format, so couldn't be converted into the graphical form required, so this was requested.

Mr and Mrs M raised a further complaint on 20 December 2024 due to lack of clarity and progress. On 13 January 2025 the subsidence specialist wrote to them saying the complaint was unjustified and blaming delays on them and their surveyor, for providing incomplete, irregular monitoring data and being obstructive.

Our investigator said he'd thought carefully about what happened in this period and hadn't seen any evidence that Mr and Mrs M or their surveyor had prevented site visits or obstructed investigations. The level monitoring report the subsidence specialist required had been on file since December 2023. And while it may not have been in the format required it shouldn't have taken until December 2024 for this to be picked up. He noted that the arborist's report dated 17 May 2024 noted that the role of vegetation and the efficacy of management recommendations be qualified by means of monitoring.

So he didn't think that Aviva had handled things well. Mr and Mrs M had repeatedly chased Aviva with little or no response. And when they did hear from the subsidence specialist in January 2025, the update largely blamed others rather than providing a constructive way to move matters forward.

Aviva had accepted it could have handled things better and offered £300 compensation. Our investigator said he'd considered how difficult and upsetting Mr and Mrs M had found the situation and felt £450 was a more appropriate award for distress and inconvenience.

CER/1491391/25

In view of Mr and Mrs M's ongoing complaint Aviva appointed a senior claim partner to the case, which our investigator said he thought was required in the circumstances.

He said the subsidence specialist had proposed mitigation works, the removal of some implicated vegetation, while matters were reviewed further. Some of this vegetation was on Mr and Mrs M's property and some belonged to a third party. Efforts were made to determine who was the responsible third party and Mr and Mrs M assisted with this. But they were reluctant to proceed with any mitigation works as they weren't convinced this would resolve their subsidence problem.

They requested a meeting with the subsidence specialist together with their surveyor but he didn't agree to this. The subsidence specialist maintained that the proposal was reasonable and backed by expert evidence. Mr and Mrs M were unhappy that the site inspection report hadn't been shared with them. Aviva checked and said it had been. Our investigator said the claims notes didn't show it had been sent to them before March 2025, but it had been sent to their appointed representative on 10 March 2024.

Our investigator felt Aviva could have done more to alleviate Mr and Mrs M's concerns by explaining the claims process to them. Including what information it required and why this was needed. He thought the failure to do this was the key to their reluctance to engage with the proposal. He also said that he couldn't ignore that the findings noted in Aviva's technical appraisal weren't conclusive. While all the delays during this period weren't in Aviva's control he'd noted earlier that they should have picked up the issue with the monitoring data a lot sooner. And he felt they could have been more constructive in trying to find a resolution.

So the poor handling of Mr and Mrs M's claim continued and he felt a further £200 compensation should be paid for their ongoing distress and inconvenience.

Our investigator said that while he didn't consider all the delays in the case to be in Aviva's control across all three complaint periods, he found communication to have been poor, timescales excessive and that Aviva had been reluctant to meaningfully engage with Mr and Mrs M.

So he said Aviva should do the following: -

- Pay Mr and Mrs M £800 compensation, inclusive of the £300 they'd previously offered.
- Arrange the required level monitoring and consult its arborist for further guidance, before proceeding with the proposed mitigation works. Mr and Mrs M should be kept informed through the process and be provided with a clear explanation throughout.

He also said Mr and Mrs M should understand that if the result of the level monitoring supported the implicated vegetation as a cause of the subsidence, then this would require removal. And that Aviva is not obligated to underpin their property unless there is no other viable option available.

Aviva accepted our investigator's view but Mr and Mrs M didn't. They didn't agree because they want Aviva to adhere to the terms of their insurance policy and execute a "full and proper repair" to which they're entitled – they want Aviva to underpin their property.

They feel Aviva has defaulted to blaming drains and vegetation for causing their subsidence problem to save costs. And they feel this is a deliberate attempt to lengthen the claims process so they will accept this. Without underpinning they say their property will continue to collapse.

They don't think it's fair that they have to continue to chase Aviva who dismiss or don't take their concerns seriously. Whenever they've complained to Aviva directly, they say they've contacted their appointed subsidence specialist for information, which they'd expect, but

Aviva don't contact them. So the information Aviva receive just comes from the subsidence specialist and is mostly untrue.

Our investigator considered Mr and Mrs M's comments and provided a further view on 9 October 2025.

This remained largely the same as his earlier view. But he included some information about the remit of our role, saying that it's not for us to tell insurers how to deal with a claim. Insurers employ industry experts to assist and guide them. He said he appreciated that Mr and Mrs M may feel the process is flawed because they believe experts instructed by insurers will always act in the insurer's interests.

But he said the insurance industry regulator, the Financial Conduct Authority (FCA) set out rules and guidance for insurers in the 'Insurance: Conduct of Business Sourcebook (ICOBS). These rules place an obligation on insurers to act honestly, fairly and professionally in accordance with the best interests of their customers. And he said he kept these rules in mind when considering what's happened in this claim.

While he felt the service provided to Mr and Mrs M during the claims process had fallen short in parts, overall he was satisfied the actions taken by Aviva so far, including its investigations, appointment of specialists and proposed next steps, were consistent with what he'd reasonably expect to see in a subsidence claim of this nature.

While Mr and Mrs M want their property underpinned he said Aviva have a liability to indemnify their customers for damage which has occurred and provide a lasting repair for that damage. They don't have to agree to Mr and Mrs M's choice of remedy, where they consider this goes beyond their liability.

Aviva's investigations identified two possible causes of the subsidence, damaged drains and nearby vegetation. Mitigation works to the drains has already been carried out but the effectiveness of the proposed vegetation management still needed to be confirmed through a period of monitoring.

Aviva had agreed to do this and our investigator said he thought this was a reasonable way forward, as it would help clarify the role of nearby vegetation and help determine exactly what works are required to restore stability to the property. And our investigator said Aviva is entitled to offer the most proportionate remedy as a first approach to resolution

So while he said he was sorry to disappoint Mr and Mrs M our investigator said he wouldn't be recommending that Aviva underpin their property.

But he said it was clear that there'd been a breakdown in the relationship between Mr and Mrs M and the subsidence specialist assigned to their case. And this had adversely impacted the progress of their claim and their confidence in the claims process. So he felt the appointment of a different subsidence specialist would benefit the claim.

So in addition to the recommendations in his first view he said the Aviva should also: -

- Appoint a new subsidence specialist to take over management of the claim, who should make early contact with Mr and Mrs M and agree a clear plan and way forward.

Aviva accepted our investigator's further recommendation and said they'd put it to their loss adjusters. But said the loss adjusters have regionally based specialists with their own caseloads and areas. So changing the subsidence specialist would depend on whether this

was possible.

Mr and Mrs M didn't accept our investigator's further opinion. They said they didn't want compensation. They maintain that they want a full and lasting repair to their home. And to achieve this the cause of the subsidence needs to be established, which it hasn't been, and then a remediation plan can be put in place.

If the solution requires trees to be removed then they said they have no objection, but this hasn't yet been shown to be the case.

If the property requires underpinning they expect Aviva to do this, but they've never said this is all they'll accept.

They confirmed they're happy with a new subsidence specialist being appointed. And they'd like Aviva to attend a meeting at the property with their structural engineer and Aviva's new subsidence specialist so the current state of their property can be seen and a way forward agreed. They say this was suggested by their surveyor on 17 September 2025 but Aviva haven't replied.

Since our investigator provided his further view we've contacted both parties to say that we believe a site meeting is required to consider the current state of Mr and Mrs M's property, and to agree a plan to move their claim forward. They've indicated that they agree to this.

The case has now come 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.

Subsidence claims by their nature often take considerable time to resolve as the cause of the damage has to be identified and dealt with, and a period of monitoring is then often required to see if the property has stabilised before repairs can be considered.

As our investigator has said I'm only looking at the period up until 19 June 2025 when Aviva responded to the last of the three complaints that have been referred to our service.

Mr and Mrs M submitted their claim to Aviva in October 2023 and I can understand their frustration that, over two years later, the cause of the damage to their property has yet to be determined.

There seems to be no dispute that the damage has been caused by subsidence. This was identified by Mr and Mrs M's surveyor before they submitted their claim to Aviva and confirmed by Aviva's subsidence specialist. It's the cause of the subsidence that's yet to be established.

Aviva arranged drainage and arborist's investigations. Some issues were found with the drains and repairs were arranged, but I've not seen any evidence of whether this has impacted on the condition of Mr and Mrs M's property.

The arborist's report dated 17 May 2024 is said to be preliminary. It identifies a silver birch tree on Mr and Mrs M's property and a group of mixed species trees on a neighbouring property as a potential cause of the damage, and recommends they be removed. But says site investigations need to confirm that this vegetation is contributing to clay shrinkage subsidence,

Aviva have agreed to further monitoring of the property, but before this is arranged I think a site meeting is required so that Mr and Mrs M's surveyor and Aviva's subsidence specialist can agree what further investigations are required so that progress can be made with the claim.

Aviva have indicated that if it's possible they're prepared to agree to the instruction of a new subsidence specialist. I'm persuaded that this is necessary as it's clear there's been a breakdown in the relationship between Mr and Mrs M and the current specialist. I don't think any meaningful progress with the claim can be made unless the parties can work together.

I understand that Mr and Mrs M want their property repaired. They've said this was the purpose of the complaints they've raised and they don't want compensation. But there have been considerable delays in the case. Aviva had accepted that they're responsible for some of these delays and have offered Mr and Mrs M £300 compensation.

These delays are over and above what I'd expect to see in a subsidence case and have contributed to the current situation, that over two years on from when Mr and Mrs M submitted their claim to Aviva the cause of the subsidence to their property has yet to be determined. And poor handling of the claim has also contributed to the current situation.

I've set out in the background to this claim our investigator's comments on the delays and I agree with his view the Aviva should pay Mr and Mrs M £800, inclusive of the £300, previously offered for the distress and inconvenience they've experienced as a result of delays and how their claim has been handled. Aviva have confirmed that they're prepared to make this payment if it's accepted by Mr and Mrs M.

Our investigator and Aviva's subsidence specialist believed that Mr and Mrs M were only prepared to agree to their property being underpinned to resolve their claim. They've said that this isn't the case, what they want is full and lasting repair to their property, which can only be considered when the cause of the subsidence is established.

I can't comment on whether underpinning of Mr and Mrs M's property is required as currently there's insufficient evidence available regarding the cause of the subsidence.

So what's necessary at this stage is a plan to establish the cause of the subsidence and what remedial action is required before repairs can be considered.

### **Putting things right**

I require the following steps to be take: -

- Aviva to appoint a new subsidence specialist to take over the management of Mr and Mrs M claim.
- Following the appointment of the new subsidence specialist a site meeting to be arranged at Mr and Mrs M's property, with the subsidence specialist and Mr and Mrs M's surveyor in attendance, to review the current condition of the property and agree what actions and investigations are required to establish the cause of the damage to the property.
- A report on the site visit to be provided to Aviva and Mr and Mrs M within 14 days of the visit.
- Aviva to arrange the necessary investigations/actions agreed at the site visit without delay and within a reasonable timescale.
- Mr and Mrs M to be kept updated on the progress of their claim by Aviva or their subsidence specialist on a regular basis and not less than every 28 days.
- Aviva to pay Mr and Mrs M a total of £800 compensation, inclusive of the £300

already offered, as compensation for the distress and inconvenience they've experienced as a result of delays and the poor handling of their claim.

### **My final decision**

For the reasons set out above my final decision is that I uphold Mr and Mrs M's complaint about Aviva Insurance Limited and I require them to take the steps set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 27 March 2026.

Patricia O'Leary  
**Ombudsman**