

The complaint

Mr S has complained that Tesco Underwriting Limited (“Tesco”) unfairly declined a claim for subsidence to his conservatory.

Any reference to Tesco in this decision includes its appointed agents.

What happened

Mr S made a claim under his home insurance policy with Tesco, after he found subsidence damage. Tesco investigated the cause of the damage but when it issued the report, it declined the claim.

It said the damage wasn’t covered as it was caused by the conservatory’s poor standard of construction. It referred to an exclusion in the policy which said that damage caused by faulty workmanship, faulty materials, or faulty design was specifically excluded.

Mr S complained. He said communication with Tesco had been poor, and that the damage had been caused by root-induced clay shrinkage which was covered under the policy. He further said that the regulations Tesco had relied on to decline the claim wouldn’t have constituted statutory requirements for conservatory construction at the time his was built.

In its response to the complaint, Tesco acknowledged that it could’ve provided a better service, and offered Mr S £150 compensation. But it maintained its decision to decline the claim on the basis that although building regulations wouldn’t have been applicable at the time, tree roots were found to a depth of 1m so foundations should’ve been built to a depth of 2m to prevent subsidence occurring.

Mr S didn’t accept Tesco’s response, so he referred the complaint to the Financial Ombudsman Service for an independent review. Our Investigator considered the complaint, and recommended Tesco reconsider the claim and increase the compensation payable to £250 to reflect the impact of its errors on Mr S.

Tesco didn’t agree with our Investigator’s assessment, so the complaint has now come to me for an Ombudsman’s 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.

As this is an informal service, I’m not going to respond here to every point raised or comment on every piece of evidence Mr S and Tesco have provided. Instead, I’ve focused on those I consider to be key or central to the issue in dispute. But I would like to reassure both parties that I have considered everything submitted. And having done so, I’m upholding this complaint. I’ll explain why.

The insurance industry regulator, the Financial Conduct Authority (FCA), has set out rules and guidance about how insurers should handle claims. These are contained in the

'Insurance: Conduct of Business Sourcebook' (ICOBS). ICOBS 8.1 says an insurer must handle claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and give appropriate information on its progress; and not unreasonably reject a claim. I've kept this in mind while considering this complaint together with what I consider to be fair and reasonable in all the circumstances.

And in this case, I don't consider Tesco declined the claim fairly. I say this because, Mr S's conservatory was built in 2000, and having checked the building regulations Tesco has relied on to decline the claim, I can see these weren't applicable at that time.

It's for Tesco to show that the faulty design or workmanship exclusion applies in this case. And that means it must show that the relevant building standards weren't met when the conservatory was first built and that the failure to meet these standards is the reason the damage occurred. Tesco has cited NHBC guidelines but most conservatories are exempt from these. It's also quoted building standards from 1986 and building regulations from 1989, and it's said that as roots have been found as deep as 1m, a minimum foundation depth of 2m was required, but the builder only lay foundations to a depth of 500mm.

I've considered what the regulations say about good building practice from around the time the conservatory was built. However, even by taking the building regulations into account, I'm still not persuaded that Tesco has been able to show that a failure to meet these requirements was the reason the subsidence occurred.

I say this because, the site investigation report shows the subsidence was caused by clay shrinkage due to nearby vegetation, and that tree roots extended down to 1m below ground. And we know the foundations were only 500mm below ground. Some of the regulations from around the time the conservatory was built suggest a minimum depth of 750mm for foundations. As roots were found below this level, this suggests there would've been movement and possible subsidence damage even if the guidelines had been met. So I'm not satisfied that Tesco has been able to demonstrate that the defect – failure to meet a recommended foundation depth – was the cause of the problem.

I've considered the fact that some regulations say depths of 1m should be adhered to in clay soils or close to trees. But I also think it's relevant that the evidence shows the conservatory stood for at least 25 years before any damage occurred. If inadequate foundations were the reason the subsidence happened, as Tesco suggests, then I would've expected there to be some indication of movement or damage much sooner than 2025 when the claim was made.

Tesco has provided, in response to our Investigator's opinion, some commentary around the fact that vegetation needs time to mature, and trees were not managed, but allowed to grow taller. But this doesn't change my decision about this complaint, because I don't think it's fair to hold the builder from the time to a higher standard than was necessary, as we don't know anything about the vegetation there was at the time and how this would've influenced the builder's decision regarding the foundation depths. So I still consider it unfair for Tesco to rely on the defective design exclusion in this case, for the reasons I've explained above.

I've also considered the level of service Tesco has provided to Mr S, and I agree with our Investigator that compensation of £250 is reasonable in this case given the impact on Mr S. This is because I'm satisfied Mr S incurred inconvenience by having to call Tesco for updates due to poor communication, and the damage has now progressed to a point where he is unable to use the conservatory, which I can appreciate has been upsetting and frustrating for him.

Putting things right

Tesco Underwriting Limited should reconsider Mr S's claim subject to the remaining terms and conditions of his policy, and pay him a total of £250 compensation for distress and inconvenience, from which it may deduct any amount already paid to him for this complaint.

My final decision

My final decision is that I uphold this complaint and I direct Tesco Underwriting Limited to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 April 2026.

Ifrah Malik
Ombudsman