

## The complaint

Mrs B complains about Intact Insurance UK Limited's handling of her buildings insurance complaint.

Mrs B is being represented by Mr S. So, I may refer to him below.

All references to Intact also include its appointed agents.

## What happened

Previous final responses have been issued by Intact to Mrs B about this claim, in August 2023 and June 2024. However, these do not form part of this complaint, so any reference to events within these dates are for context only.

My decision focusses on events after the final response of June 2024 and includes issues raised in subsequent final responses issued in November 2024 and February 2025.

Below is intended to be a summary of what happened and does not therefore include a full timeline or list every point that has been made.

- A claim was logged in May 2022 after cracking was noticed to a garage and rear extension at the property.
- In July 2022, Intact's appointed representative ("C") confirmed in a letter the claim had been accepted and the cause of the subsidence to the garage was due to root induced clay shrinkage. Further investigation was needed to determine the cause of damage to the rear extension. Bore holes and trial pits were dug at the property.
- In September 2022 C said it considered extreme weather conditions experienced in the previous years, with wet winters and dry summers, had caused significant fluctuations in the water table, causing destabilisation to occur.
- C then carried out a period of monitoring at the property, which showed higher than expected change over the summer months.
- An arborist was also appointed. Its report identified moisture extraction due to nearby vegetation (trees) – with significant presence of vegetation identified under the foundations. It said pruning the trees would help but advised removing them.
- The larger trees belonged to a neighbour, who didn't provide permission for them to be removed. So other options were explored.
- In early 2024, quotes were obtained for other ways to remedy the issues. These included piling, resin injection and under pinning.
- Intact initially felt resin injection was the best option, but Mrs B set out concerns about this not being the correct option. She appointed a surveyor ("S") to provide a report.
- S issued a report in September 2024 and set out why they believed piling was the required way to achieve a lasting repair.
- Mrs B didn't receive any response from Intact for several months. So, she raised a complaint about its handling of the claim. Intact issued a final response to this

complaint in November 2024, acknowledging it delayed responding to Mrs B, offering £600 compensation in recognition of this.

- A site meeting took place in December 2024, between C and a contractor ("O").
- In its report O has also set out the cause of movement appeared to be the erosion and consolidation of a sandy sub soil. It was agreed resin injection was not a viable option.
- At this time, Intact reviewed the claim internally. It subsequently wrote to Mrs B in December 2024 to inform her it was declining the claim.
- It said the subsidence hadn't been caused by an insured incident. It said the foundations and ground on which the extension was built weren't sufficient to bear the load above.
- It's pointed to an exclusion in the policy which says damage caused to structures by bedding down or settlement of newly made-up ground was excluded from cover.
- Mrs B disagreed with Intact's decision to decline the claim and was unhappy with its handling of matters. She then raised a further complaint.
- In its final response of February 2025, Intact maintained its decision to decline the claim.
- It said the claim had been assessed by a senior technical expert that said the ground had simply consolidated under the weight of the construction. It said it had likely undergone a secondary period of settlement following the addition of a significant change in load around 2007, when the roof of the extension was changed from a flat to a pitched roof. It said this had likely been ongoing for some time.
- It reiterated the exclusion regarding the bedding down of structures but also pointed to another exclusion regarding the structure being defective.
- Intact acknowledged it could have provided this decision on the claim sooner and that its service had been poor. In recognition of this it offered Mrs B £1,200 compensation.
- Mrs B disagreed with this and so brought the complaint to our service.

There have been several opinions provided about the cause of subsidence and several investigations carried out at the property between 2022 and 2024. I've summarised some of the key points put forward below.

An arborist completed its report around September 2023. In summary it said:

- Roots were observed to a depth of 1700mm and 2300mm in both trial pits in the vicinity of the damage.
- Roots had been observed under the foundations of the property.
- Monitoring had shown a cyclical pattern of movement indicative of vegetation influence.
- There is significant vegetation present with the potential to influence soil moisture and volumes below foundation level.
- It concluded the damage was consistent with shrinkage of the subsoil related to moisture extraction by nearby vegetation.

In summary Intact has said:

- The ground in the area of the damage is non plastic and wouldn't be affected by the proximity of the trees.
- It says the damage has been caused by ground consolidation.
- It has pointed to the depth of the foundations of the main property and that they are this depth for good reason. It says the ground at a higher level has no ground bearing

capacity due to being a combination of made ground and loose material, which is not suitable as a foundation.

- It's said in the location of the damage, the bearing capacity only begins at 1.5m below ground level and becomes ideal at 2m.
- It says the damage has been caused by consolidation of the weight of the construction and likely underwent a secondary period of settlement when the roof was replaced around 2007.

Intact's appointed loss adjuster ("C") said:

- It said the was likely a result of root induced clay shrinkage, likely caused by nearby trees.
- In response to Intact informing, it that it planned to decline the claim, it said whilst the foundations are shallow, it didn't feel this was the proximate cause of the damage and but due to subsidence of the ground beneath them.

Mrs B's appointed surveyor ("R") provided reports in September 2024 and May 2025. In summary they said:

- They considered the movement to be a combination of shrinkable clay soil, the proximity of mature trees extracting moisture, shallow foundations vulnerable to soil change and made ground.
- They said the most significant movement had occurred more than 20 years after construction, well beyond any expected consolidation period, which pointed to tree root activity being a critical contributing factor.

*Our investigator's view*

Our investigator recommended the complaint be upheld.

In summary she said the following:

- While its not in dispute there had been consolidation of the ground, it was disputed what factors had caused it. She also said all reports had identified multiple factors and that the subsidence couldn't be attributed to one cause.
- She said the four bore holes dug at the property provided different results on soil types and evidence was found of root ingress by the arborist under the foundation and water escaping into the ground from the gully area. She also noted the time the structures had been in place (the garage, around 50 years and the extension around 20 years) and that any bedding down would've generally taken place in the first ten years.
- In conclusion she didn't think Intact had declined the claim fairly, focussing on one cause, which had stood the test of time.

To put things right, our investigator recommended Intact reinstate the claim and return it the position it was in December 2024 and reassess the claim.

Intact didn't agree with our investigator's view of the complaint. It reiterated several of its findings but in particular it said:

- The main area affected (the rear left corner of the property) could not have been influenced by the tree roots due to the type of ground there, as demonstrated by the findings in the trial pit dug in that area.
- It has pointed out this trial pit was the only relevant one as this was where the damage was located.
- It reiterated why it believed the data showed active and progressive movement which pointed to a consolidation and settlement.

- It also added it did not feel the other suggested influences for the movement were supported by factual data.

Our investigator considered what Intact had said but set out that she was still of the opinion the subsidence had been caused by multiple issues, which was supported by various expert reports. She said Intact were pointing to the cause being a structure that had stood for over 20 years. And even when considering the addition of the roof, which had been changed around 13 years ago, she felt it reasonable the issues would've presented themselves sooner were the foundations inadequate.

She said Intact's position wasn't supported by the available reports, including some of Intact's own appointed representatives. She pointed to correspondence between C and Intact in which C expressed concerns - in particular Intact's definition of 'settlement' as the ground in question was not newly made.

She said C referred to reports which showed structural movement and there was no evidence Mrs B should have been reasonably aware of cracking that went unnoticed.

Intact still disagreed with our investigator. It reiterated the foundations were inadequate given the ground conditions. It didn't believe the damage started occurring after 20 years, and it feels this has been suffering 'very gradual deterioration' ever since construction and it will continue to deteriorate as the ground is so weak.

#### *Subsequent developments*

Intact proposed appointing an external surveyor to assess the claim and all information, with all parties bound by their conclusions.

Our investigator made Mrs B aware of this proposal; however, Mrs B didn't agree.

Mrs B set out why they felt Intact were seeking to further delay matters. She felt the investigator's initial recommendations were a more reasonable way to put things right. Mrs B also set out the claim had been ongoing for some time and pointed to her age and vulnerability.

Intact set out that it still didn't agree with our investigator.

It reiterated its position that the ground wasn't sufficient for the structure and there is no set time limit as to when a building should start or stop moving.

It said the evidence available allowed it to show an exclusion applies despite there being a potential for many factors causing the subsidence.

The complaint has now passed to me.

#### **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 agree with the conclusions reached by the investigator for these reasons:

- It doesn't seem to be in dispute that there has been consolidation of the ground. But I'm not persuaded this is the sole cause or that the other causes suggested by experts have been completely ruled out.

- It has been consistently set out by several investigations that vegetation has played a part in the subsidence issues – including from Intact's own appointed representatives.
- I'm also not persuaded Intact have fairly demonstrated it can apply the exclusion it has. Settlement is something that generally occurs within the first ten years and I can't see that this happened in either the ten years after the extension work was completed or after the roof was altered.
- In addition, the garage which has also suffered damage has stood for nearly fifty years without issue. I've also not seen anything that persuades me the damage had presented itself earlier than 2022, or that Mrs B should have been reasonably aware of any damage occurring. So, I'm not persuaded the damage had been occurring gradually over time as Intact has said.
- I can see Intact pointed to the type of soil in one trial pit and says this relevant as it is in area of the damage, and that it would not be susceptible to moisture extractions. However, I point out that there are two trial pits located in that vicinity. While the one highlighted by Intact is in the location of the damage, the other is close by and is also in an area reported to have cracking.
- According to the report from the Arborist, roots have been identified in both areas, as this includes under the foundations in what Intact says is the relevant trial pit. It's also generally accepted and demonstrated in the investigation reports that there are several types of soil present in the area. So, I'm not persuaded tree roots have been ruled out as not playing any part.
- Regarding the depth of the foundations, I can see building control has given sign off on the structure and I can't see any requirement was set out for the foundations of the extension to be to the same depth as the main property, nor anything that persuades me Mrs B should've been reasonably aware at the time the extension was built, or the roof changed, that the foundations weren't sufficient.
- In summary, aside from Intact, all the expert reports provided have acknowledged there are multiple factors causing the subsidence – including from its own appointed representatives. Four bore holes and trial pits were dug around the property, and investigations have provided detail of different soil types and several factors causing the subsidence, along with evidence of the impact of the trees.
- All the experts agree the subsidence can't be attributed to one cause, except Intact, and as I've set out above, I'm not persuaded enough by its explanation to say it can reasonably apply the exclusion it has to decline the claim.
- From looking at the timeline, I'm considering in my decision, I can see there have been delays caused by Intact that were avoidable and that its handling of the claim, including its communication has at times been poor. However, I feel the compensation its offered Mrs B fairly recognises the distress and inconvenience caused. So, I make no further award here.

So, for these reasons, I uphold this complaint.

### **Putting things right**

To put things right Intact should reopen the claim and continue to consider it under the remaining terms and conditions of the policy.

### **My final decision**

My final decision is that I uphold Mrs B's complaint.

To put things right I direct Intact Insurance UK Limited to do as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 30 December 2025.

Michael Baronti  
**Ombudsman**