

## The complaint

Mr S complains about how Liverpool Victoria Insurance Company Limited ('LV') has handled a subsidence claim made on his buildings insurance policy.

LV is the underwriter of this policy. Part of this complaint concerns the actions of third parties instructed on the claim. LV has accepted it is accountable for the actions of third parties instructed by it. In my decision, any reference to LV includes the actions of any third party instructed by LV during Mr S's claim.

## What happened

In May 2022 Mr S contacted LV to make a claim. LV arranged for site investigations to be completed around November 2022. Following this it was determined that '*damage has occurred due to clay shrinkage subsidence.*' LV arranged for an arborist to undertake a survey of the vegetation and provide an opinion as to whether any of this vegetation is likely to be influencing soil moisture levels beneath the foundations of the property, and if so, to provide recommendations as to what tree management could be implemented to effectively prevent damage continuing.

The arborist said that mixed species shrubs (SG2) in Mr S's property and two plane trees (T1 and T2) owned by the Local Council (LC) were the likely cause of subsidence damage. Recommendations included '*remove section of shrub/hedge group and grind/grub stumps to allow a minimum clearance of 2.5m from the front of the property*' for SG1, and '*Fell and treat stump with eco plugs (broadleaved)*' for T1 and T2.

LV arranged for monitoring to take place between February 2023 and September 2024. The LC advised around April 2024 that it would not consent to LV's proposals for T1 and T2. At the same time, Mr S said he didn't think only removing SG2 would resolve the issue and asked that LV consider stabilisation instead. LV didn't agree.

Mr S instructed a structural engineer (R) to advise on the results of the monitoring, LV's opinion on the claim, and how to progress the claim. This report said:

- *We consider these readings follow a predictable pattern of increased subsidence in warmer, dryer periods and recovery during wetter months. They also show that movement has not stabilised and is ongoing. The degree of movement is reasonably severe and requires remedial measures to prevent further deterioration of the structure of the house, its durability and its weather-tightness.*
- *The monitoring period has by now included two summers and one full winter. We consider this to be long enough to provide a representative impression of the extent and variation of the movement, including predictions of future behaviour. The information obtained is adequate to determine a course of remedial action. We do not believe further monitoring is required or beneficial.*
- *We understand the current proposals from the loss adjusters are to continue monitoring and to trim the minimal planting in the front garden. We do not consider*

*either of these approaches are required or valid and permanent remedial works should instead be proposed. Remedial works under consideration should include underpinning as the only means of minimising the risk of future movement.*

LV's building consultant considered R's comments, and said *'Without the removal of the implicated vegetation we are unable to proceed any further with the claim whether that be moving to repair or further monitoring to prove stabilisation following its removal.'*

In response Mr S advised *'Please note that our neighbours have significant movement to their property, and both their gardens are bare i.e. without any major vegetation. See attached photos...So this cannot be the reason for the movement... this is also supported by the findings of our structural engineer. If you persist in asking to remove the vegetation, please provide technical justification for this.'*

LV's building consultant maintained *'the LA [loss adjuster] will not consider any evidence of seasonal movement whilst there remains policy holder vegetation which might influence that movement.'*

Mr S complained to LV about the delay in progressing his claim, and lack of action taken by LV. Mr S was also unhappy with LV's decision to ask him to remove the vegetation from his property, as he considered underpinning would be a more suitable option in the circumstances. Mr S asked for the Financial Ombudsman Service to consider his complaint.

During our investigation LV's building consultant provided costings for a possible stabilisation solution involving a clay pile system but didn't engage further with Mr S about this option. The Investigator found that LV's recommendation for Mr S to remove the vegetation from his property before LV considering underpinning was reasonable. The Investigator recommended LV pay Mr S £400 in recognition of its poor handling of the claim, including avoidable delays.

LV accepted Mr S's findings. Mr S didn't. As the case couldn't be resolved, it has been passed to me for final decision.

I issued a provisional decision on Mr S's complaint. This is what I said about what I'd decided and why.

### **what I've provisionally 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.

*While I've considered all evidence and arguments presented to this Service, I've only commented on issues and evidence I consider relevant to determining the complaint.*

### **Claim outcome**

*Mr S and his surveyor say underpinning should be considered at this stage. LV disagree and say Mr S needs to remove the vegetation in his property (SG1) and for it to monitor the impact of this, before stabilisation is considered as an option. The question I've asked is, on balance, is it fair and reasonable for LV to require Mr S to take further steps before moving the claim to stabilisation. Having considered this question in light of the evidence presented, I'm not persuaded it is. I'll explain why.*

*I've considered LV's evidence in support of its position that Mr S should remove SG1 from his property in order for further monitoring to happen to assess the impact of T1 and T2*

*remaining in situ. But I can't see that LV has provided any compelling evidence to explain what has informed this decision on the claim.*

*The comments from LV's building surveyor only go as far as saying that the vegetation from Mr S's property needs to be removed. But I haven't seen any evidence to support why or how, on balance, removal of SG1 would in itself make Mr S's property stable- especially in light of T1 and T2 still remaining in place. There's no reference at all to the likely impact of T1 or T2. I think this is vital to understand given Mr S's strength in feeling about T1 and T2 being the more dominant cause of damage and having the most adverse impact on his property.*

*If Mr S was to remove SG1, given T1 and T2 would remain in place, this would require a further period of monitoring to determine any impact. Given the length of the claim to date, and severe impact on Mr S of any further delays, I would've expected LV to fully justify its position on proposing a solution which is also likely to add more time to conclusion of the claim. I can't see that LV has done this.*

*In contrast I've considered the report from R, a structural engineer, appointed by Mr S. This report speaks to the monitoring completed by LV, and directly provides an opinion on whether LV's option for Mr S removing SG1 is a viable one. The report says 'We understand the current proposals from the loss adjusters are to continue monitoring and to trim the minimal planting in the front garden. We do not consider either of these approaches are required or valid and permanent remedial works should instead be proposed.'*

*It's accepted the LC is unlikely to provide consent for the removal of T1 and T2. I need to consider whether there's enough persuasive evidence to say that forcing Mr S to remove SG1, is likely to result in property being stabilised. And on balance, having considered the expert opinions put forward, I'm not persuaded there is enough evidence to say that LV has explained why this option is more suitable than stabilisation at this time. I have seen that following referral to this Service LV did consider the option of stabilising the property, but this was never communicated or agreed with Mr S.*

*LV has obtained costings for potential stabilisation works such as a piling solution. This appears a reasonable step in the circumstances. LV should work with Mr S to progress the claim to stabilisation. LV should work with the contractor appointed to carry out stabilisation work which avoids the removal of SG1, as Mr S prefers. If the removal of SG1 is vital to any stabilisation work needed, Mr S will need to decide whether to proceed with the claim. A refusal to cooperate with vital stabilisation work may risk LV declining the claim altogether.*

#### **Compensation**

*I'm satisfied LV's handling of the claim wasn't as good as it could've been. Communication with Mr S was largely poor throughout the claim, with Mr S having to chase for updates. Mr S also provided compelling evidence but LV didn't explain the impact of this evidence properly when determining the claim.*

*Mr S claim has had to wait longer than expected to receive a fair and reasonable outcome for his claim. And the upset and inconvenience caused by LV's lack of communication impacted Mr S more greatly than what we'd expect for a claim of this type. Thinking about our award bands and the impact on Mr S, I'm persuaded the £400 compensation recommended by the Investigator is fair and in line with what I'd direct in the circumstances. So I'll be asking LV to pay this if it hasn't done so already.*

#### **putting things right**

*My provisional decision is I intend to uphold this complaint, and direct Liverpool Victoria Insurance Company Limited to:*

- 1. Pay for ground stabilisation costs in line with the terms and conditions of the policy; and*
- 2. Pay Mr S £400 compensation for distress and inconvenience.*

### **provisional decision**

*For the reasons provided I'm minded to uphold this complaint and direct Liverpool Victoria Insurance Company Limited to settle the complaint in line with my directions above.*

### **The responses to my provisional decision**

I invited both Mr S and LV to respond to my provisional decision. LV accepted the provisional decision. Mr S also accepted the provisional decision, but also provided further comments about the type of stabilisation work LV should carry out in order to put things right.

### **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 S has explained that he accepts the proposal for LV to carry out ground stabilisation work but there's now a dispute between him and LV about how this work should be carried out. Mr S says his structural engineer (R) believes underpinning is the most effective option in the circumstances. Mr S says LV would prefer piling, and that both parties are currently unable to agree on a resolution. Mr S has asked if this Service can direct LV on how to proceed.

It's disappointing to learn that the claim hasn't been able to move forward because of further disagreement between Mr S and LV. At this stage, we'd usually expect a business to proceed with the claim in line with the terms and conditions of the policy- keeping in mind factors such as any vulnerabilities, cost, and time.

We'd expect any repair carried out by LV to be lasting and effective. Whilst it might be Mr S's preferred option for underpinning to take place, if LV can achieve a lasting and effective repair using other means, we'd generally say that's fair and reasonable. If LV's preferred option fails to achieve this, that would be a complaint for LV to consider at that time.

I've carefully considered Mr S's submissions. But I don't think these comments materially change the outcome or my direction for putting things right on Mr S's complaint.

### **Putting things right**

Liverpool Victoria Insurance Company Limited is directed to:

1. Pay for ground stabilisation costs in line with the terms and conditions of the policy; and
2. Pay Mr S £400 compensation for distress and inconvenience.

**My final decision**

I uphold this complaint. Liverpool Victoria Insurance Company Limited is directed to settle the complaint in line with my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 December 2025.

Neeta Karelia  
**Ombudsman**