

The complaint

Ms P complains about Hiscox Insurance Company Limited's handling of a subsidence claim made on her buildings insurance policy.

What happened

Hiscox is the underwriter of Ms P's policy, i.e. it's the insurer. Part of this complaint concerns the actions of the agents for which Hiscox has accepted responsibility. Any reference to Hiscox includes the actions of its agents.

The background to this complaint is well known to the parties involved, so I've included a summary here.

- Ms P owns a property insured under a buildings insurance policy underwritten by Hiscox. In September 2020, Ms P made a claim for possible subsidence and the damage caused to her property.
- Hiscox appointed agents to undertake site investigations to determine the cause of the subsidence. Once it had been established the cause was tree root exacerbated clay shrinkage, Hiscox ensured the implicated tree was removed. When the property was confirmed to be stable, it moved to the repair stage of the claim.
- Ms P's property was repaired in November 2021. Shortly after, she got in touch with Hiscox as she'd identified a number of snagging issues. Over the next year, Hiscox arranged for these to be resolved.
- However, in February 2023, Ms P contacted Hiscox again as she felt there were still issues outstanding – including damage to her chairs. Ms P also said her flat roof was leaking causing damage to the area previously repaired. She felt Hiscox had missed this during its inspections and it should be dealt with under the previous subsidence claim.
- Hiscox looked into the complaint, and while it didn't agree with most of Ms P's points, it offered £200 towards the damaged chairs as a gesture of good will. But it said that it didn't accept liability for the damage.
- Ms P raised a complaint with this Service. Our Investigator concluded Hiscox had not acted unreasonably, and its offer of £200 was fair in the circumstances.
- Ms P didn't agree with our Investigator and has asked an Ombudsman to make 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.

The nature of my role requires me to say how complaints should be resolved quickly and with minimal formality. To do this, I'll focus on what I consider to be the crux of the complaint and may not comment on everything the parties have said but I can confirm I have read and taken account of everything.

When making a claim on an insurance policy, the onus is on the policyholder to show the claim is covered under the insurance policy terms. I'll be keeping this principle in mind while reviewing this complaint together with what I consider to be fair and reasonable.

I've considered the key issues in turn.

Residual tree roots

- The purpose of the insurance policy Ms P holds with Hiscox is to insure her property against “*physical loss or damage*” - in this case subsidence. In its investigations, Hiscox found the damage was caused by tree-root exacerbated clay soil shrinkage. Hiscox's responsibility is to ensure any repair to the property is effective and lasting. This means we would generally expect the insurer, in situations such as this, to resolve the cause of the damage – in this case by removing the implicated tree – establish stability and then repair any damage caused to the property as a result of the subsidence.
- Hiscox contacted the third party responsible for the tree, and it confirmed in May 2021 that it had been felled. Following this, Hiscox arranged a period of monitoring to ensure the removal of the tree had stabilised the property. Once the monitoring was complete, Hiscox confirmed the property was stable and repairs could be completed.
- In removing the cause of the subsidence and repairing the damage caused, Hiscox had met its obligations under the policy terms. While Ms P may now consider the remaining roots to be a nuisance there is no requirement under the terms of the policy for Hiscox to ensure the complete removal of the tree, or to mitigate any potential inconvenience now that the roots are no longer causing damage. So, I'm not asking Hiscox to take any further action regarding removal of the remains of the tree.

The quality of repairs

- Ms P has provided photos which show some decorative and snagging issues. She says Hiscox's cash settlement of £381.20 was not sufficient to cover the cost of repair to some snagging issues and shrinkage cracks which appeared following the claim related repairs.
- Hiscox's agents visited Ms P's property in 2022, and ultimately offered the cash settlement for some minor decorative works and expansion cracks that had occurred following Hiscox's repairs. Following this it had offered to re-attend, but Ms P said she was happy with the outcome.
- Ms P has said the availability of Hiscox's agents was not suitable, and the relationship had broken down, and this is why she did not agree to a further visit.
- Ms P has since also said the cash settlement was not sufficient – and she had to pay out more to have the work done, while some snagging issues remain. However, Ms P has not been able to provide any supporting evidence of the additional cost for the

work she had done – as she paid her contractor in cash and there's no invoice or breakdown of the work.

- The emails Ms P has provided don't persuade me the relationship between parties had broken down to the extent a further visit would be precluded if Ms P felt more work was required. So, I think Hiscox made a reasonable effort to resolve this issue. And without supporting evidence of the work Ms P had completed, and the cost of this, I can't reasonably conclude that Hiscox should have provided a higher cash settlement for this work. So, I don't think Hiscox needs to do anything further.

The flat roof and ingress of water

- After the subsidence claim was completed, Ms P got in touch with Hiscox as she said the plaster in the kitchen began to bubble. She arranged an inspection by a roofing contractor, and she was told the flat roof would need to be replaced as it had reached the end of its natural life. This had allowed an ingress of water into the kitchen wall and caused the plaster to bubble.
- Ms P thinks Hiscox should take responsibility for this under the subsidence claim because she believes Hiscox should have identified this issue while it was dealing with the claim and repairs. Hiscox's agents inspected the new damage in January 2023 but said it was unrelated to the previous claim and the property was not suffering from further subsidence.
- Ms P accepts the damage to the flat roof was caused gradually – and the terms of her policy with Hiscox exclude damage that happens over time. I haven't seen any evidence there was a visible ingress of water while the subsidence claim was on-going. But even if Hiscox had noticed any damage to Ms P's roof or the plaster, it would not have been required to meet the cost of any repair or replacement of the roof under this claim as the cause is unrelated to the previous subsidence.
- And even if it had been aware of the bubbling plaster during the subsidence claim – and I haven't seen any evidence of this – Ms P would still have needed to make a separate claim for this damage and pay the appropriate excess. It follows that I don't think Hiscox needs to do anything further here. But it remains an option for Ms P to ask Hiscox to consider this as a separate claim.

Hiscox didn't offer a cash settlement

- In January 2021, Ms P emailed Hiscox to enquire about the settlement amount for the repairs. Hiscox replied in March 2021, explaining a settlement figure couldn't be provided until the mitigation element of the claim was completed.
- Ms P hasn't provided any evidence that she subsequently asked Hiscox to provide a cash settlement for the repairs.
- While the terms and conditions of the policy provide the option of a cash settlement, I don't think it was clear that, following the email correspondence in March 2021, this is an avenue Ms P wanted to pursue. So I won't be asking Hiscox to do anything further here.

The paint on Ms P's chairs

- Ms P has provided photos which show chairs in her living room have specks of paint on them. She says this is a result of the decoration work undertaken by Hiscox's

agents. Hiscox disagrees, as it says the painting it undertook was in another room and the chairs were covered during the painting anyway. It also says the paint on the chairs appears to be oil-based as Ms P says it can't be removed – and Hiscox used emulsion in the kitchen and this could be removed relatively easily.

- Hiscox has paid Ms P £200 as a gesture of goodwill but says it will not increase this offer as it doesn't accept it caused any damage.
- Ms P said she had obtained a report which said the paint on the chairs matched the paint used by Hiscox. When our Investigator asked for a copy of the report, Ms P explained it was actually a conversation rather than a written report so there's no permanent record of what was said for me to consider.
- I acknowledge there is paint on the chairs, and the colour seems to match the paint in Ms P's kitchen. But Hiscox has provided evidence from its specialists to explain why the paint is not the same paint as used in the kitchen. And in the absence of the report which Ms P says supports her position, on balance, I'm not persuaded there's enough evidence to safely conclude that it's more likely Hiscox was responsible for the damage to Ms P's chairs.
- For the reasons I've explained, I'm satisfied the £200 Hiscox has already paid Ms P is fair and reasonable in the circumstances.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 23 February 2024.

Paul Phillips
Ombudsman