

## The complaint

Mr and Mrs H complain about Liverpool Victoria Insurance Company Limited (“LV”)’s handling of their buildings insurance claim.

All references to LV also include its appointed agents.

## What happened

### *What my findings cover*

I’m aware previous complaints have been made by Mr and Mrs H regarding this claim. However, my provisional findings focus on events following LV’s final response of July 2022 and the issues that were addressed in its response to Mr and Mrs H in July 2023, in which they provided further referral rights to our service.

Any reference in my findings to events prior to July 2022 are for the context of answering this complaint only.

I can see further evidence has been provided to LV by Mr and Mrs H, including a report from an independent engineer (who I shall refer to as “R”). I’ve also considered this within my investigation. I also acknowledge that Mr and Mrs H have queried whether the cost of seeking independent reports can be reimbursed.

Below is intended to be a summary of the events that led to this complaint. Therefore, it doesn’t include a full timeline or list every point that has been made.

Mr and Mrs H’s house has suffered from subsidence. A claim was originally initiated in 2018.

Following investigation, in 2019 LV identified the cause of subsidence was clay shrinkage caused by moisture extraction via roots from nearby trees/vegetation.

LV had also identified issues with the drainage at the property. Whilst it says this wasn’t identified as the cause of the damage, it posed a further risk. So, repairs to the drains were made between 2019 and 2020.

Following mitigation work, LV carried out a period of monitoring from March 2021 to January 2023. Following the monitoring, LV said it was satisfied the property had stabilised and it could now proceed to repairs.

However, Mr and Mrs H have raised concerns about proceeding to complete repairs – and with the works LV proposed. They raised further concerns about the stability of the property and whether mitigation had been effective. They also raised issues with further cracking at the property.

Mr and Mrs H raised a complaint to which LV responded in July 2023.

In its response, LV said it was satisfied the level of works it proposed were sufficient

to repair the damage caused. It acknowledged Mr and Mrs H still had ongoing concerns and planned to seek an independent report.

LV said, rather than extending monitoring, if repairs were undertaken and damage re-appeared it would investigate and re-repair if necessary. It said if no further subsidence damage appeared it would have demonstrated the property's stability.

### *R's Report*

Mr and Mrs H sought assurance that proceeding to repair at this stage was correct. They engaged an independent engineer, R, who provided a report in September 2023.

I will summarise the key points from R's report here:

- R said the monitoring data available showed the trend was still dropping and hadn't stopped.
- However, R raised several points regarding the monitoring, including the material of the points, the points not being installed correctly and monitoring not being carried in line with recommended guidelines.
- Because of this, R said the monitoring was flawed and couldn't be relied upon – so therefore a further round was required.

R said no soil testing was carried out for the second trial hole. R recommended a further trial hole needed to be dug with associated soil testing.

R said they observed the external extension wall at first floor level had separated away from the first-floor construction, which required further investigation and possible remedial repairs.

### *LV's response*

LV reviewed the findings of R's report, but it didn't change its view of the complaint. It said:

- Monitoring data had only shown seasonal movement expected with the type of soil at the property. It said the readings taken from monitoring didn't show significant movement.
- It didn't agree further soil testing was required.
- It didn't agree cracking at the property had increased when reviewing previous photos with those from recent visits.

Mr and Mrs H weren't satisfied with LV's response, so they brought the complaint to our service.

### *Our investigator's view*

Our investigator recommended the complaint be upheld.

She said on balance she was more persuaded by the findings of R's report – and the property wasn't stable. She recommended LV present a suitable plan for further monitoring at the property and present this to Mr and Mrs H – and proceed to redecoration work if the property was established to be stable. She said if further monitoring showed the property wasn't stable, LV would need to carry out further work to identify and remove the cause of subsidence before carrying out a lasting and effective repair.

LV didn't agree with our investigator's view of the complaint. It said it was satisfied the property was stable and didn't agree with R's comments regarding the monitoring being

flawed. It said rather than carrying out further monitoring, if repairs were completed and damage re- appeared it would investigate the cause and re-repair, which would be covered by the existing claim. And if no subsidence damage re-appeared it would have demonstrated stability.

The complaint then passed to me to decide.

#### *Further developments*

I wrote to both parties on 4 June 2024 to ask for further information regarding the cracking at the property – including any photos Mr and Mrs H had provided to LV, or any photos LV had reviewed when concluding no further cracking had occurred. Both Mr and Mrs H, and LV, have provided photos of the cracking for me to consider.

I also asked LV for further comment on the following:

- Why it disagreed with R's findings regarding the monitoring and to provide any evidence to support its position.
- Why it felt further soil testing wasn't required.
- Its position regarding R's observations regarding remedial repairs and further investigation required to the external extension wall at first floor level.

In its response, LV said:

- There was no indication cracking had increased from further movement.
- It didn't see any issues or concerns with the setup or readings from monitoring. It said its supplier was willing to investigate but would need to carry out a further visit to do so.
- The evidence it acquired at the beginning of the claim, including Geological surveys of the area, didn't show that the initial soil testing was in question or that further testing was required.
- It would update the remedial repair schedule to address the observations made by R.

#### **My provisional decision**

I issued a provisional decision on 20 June 2024. In my provisional findings, I said:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*I understand Mr and Mrs H feel strongly about what has happened. This is their home and naturally is of great importance to them. They've provided detailed submissions to support their complaint and I want to assure them I've read and considered everything they've said carefully.*

*However, my findings focus on what I consider to be the central issues and will not specifically address every single point the parties have raised or to answer every question asked. This isn't meant as a discourtesy, it simply reflects the informal nature of our service and my role, which is to consider the evidence presented by all parties to reach what I think is a fair and reasonable decision based on the facts of the case.*

*When an insurer gives cover under a home insurance policy it is to pay for the cost of repairing the damage caused by subsidence. That would usually be the cost of repairing and strengthening the property where the subsidence has caused damage.*

*In practice we also expect insurers to make sure the property is stable. Stabilising can*

usually be achieved by removing the cause of the subsidence e.g. removing trees or (as here) repairing the drains (which I'm pleased to see LV has previously identified as a potential risk and factored into works).

I appreciate Mr and Mrs H want assurance that the highest standard is applied in carrying out repairs. However, I will set out here that where subsidence has occurred, this service expects insurers to stop the current movement. We don't expect the insurer to make sure the property never moves again. But any repairs the insurer carries out need to be lasting and effective.

The monitoring data available shows less than 3mm movement, which is what is generally considered across the industry as within tolerance. And I'm not persuaded from reviewing photos that cracking appears to be significantly worse in the photos provided.

However, R has said monitoring data is flawed and provided detail as to why. Other than it disagrees with R, LV hasn't offered any detail about the monitoring or why it believes it isn't flawed. So, considering detail they've provided, I'm more persuaded by what R has said here – and the monitoring is flawed. Therefore, I'm not persuaded that the property has been confirmed to be stable. LV said its monitoring supplier would reinvestigate, but it had the chance to do that following R's report – and it didn't.

So, I'm now intending to direct it to proceed to carrying out further monitoring at the property. Given the issues that have been experienced with the monitoring and to provide assurance, I think it reasonable LV engage a different monitoring supplier.

Regarding soil testing, I can see why Mr and Mrs H have concerns, however I've not seen anything that persuades me further soil testing is required here at this time. LV only needs to establish the cause of the subsidence and from everything I've seen, I'm satisfied this has been identified.

However, from further monitoring being carried out, if it is established the property isn't stable, I would expect LV to carry further investigations where necessary to make sure any cause of subsidence is rectified before it can proceed to repair damage.

I'm pleased to see LV said it would update the remedial repair schedule to address the observations made by R. I think this is reasonable, however this will need to be part of any further considerations given to what works are required once further monitoring has been completed.

Considering what I've set out above, I think R's findings have impacted the direction of the claim. And as such I think it reasonable that the cost incurred by Mr and Mrs H for R's report be reimbursed to them.

So, for these reasons, I intend to uphold this complaint.

Putting things right

To put things right I intend to direct LV to:

- Carry out further monitoring at the property using a different supplier to establish whether the property is stable.
- Update the remedial repair schedule to address the observations made by R set out above.
- Reimburse Mr and Mrs H for the cost of R's report – If it requires it LV can ask for proof of the cost, such as an invoice or receipt.
- Simple interest of 8% should be applied on the above, from the date it was paid by Mr and Mrs H until the date LV makes payment to them."

## **Responses to my provisional decision**

LV said it didn't have any further comments to add following my provisional decision.

In summary, Mr and Mrs H raised the following points in response to my provisional decision:

- They asked if I had a suggestion of a length of time for the further monitoring.
- They reiterated what RC's report said about a second soil sample– and hoped a second sample following mitigation works would satisfy them it had been successful.
- They said they had concerns about the loss adjuster handling their complaint and have lost trust in them. They've requested I direct LV to appoint a new loss adjuster to oversee matters.
- They would like clarity as to how the company providing repairs should ensure the highest standard is applied. Mr and Mrs H have pointed to a particular area of work, in which they said without an appropriate plan from a qualified structural engineer, they can't be confident repairs will be lasting and effective.
- Mr and Mrs H said they would like a plan drawn up by a structural engineer to identify and direct how works should be carried out. This would mean the structural integrity of their house had been restored in line with a certified professional's design – and LV's contractor would then be able to follow this.
- Mr and Mrs H have queried how long lasting and effective should be and if further subsidence damage was to present itself in the future how long after repairs would they be able to refer matters back to LV.

## **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.

I've reconsidered all the available information along with Mr and Mrs H's additional comments, but it doesn't change my decision – or my reasoning.

It's reasonable that LV would need to approach this as a new period of monitoring based on what I've already set out in my provisional decision. There are a number of factors that would need to be considered, such as the effect of seasonal weather and what future monitoring readings show - which could potentially affect the amount of monitoring required. It would be for LV to consider this with Mr and Mrs H as matters progress.

As I set out in my provisional findings, I've not seen anything that persuades me further soil testing is required here at this time. LV only needs to establish the cause of the subsidence and from everything I've seen, I'm satisfied this has been identified. And as LV will be carrying out further monitoring at the property, I'm satisfied this will be enough to demonstrate whether mitigation works have been successful. If the monitoring does show significant movement is still occurring, then LV will need to consider further investigation.

I understand Mr and Mrs H have concerns with LV's handling of the claim and have requested to change loss adjusters. But this issue doesn't form part of the complaint that was brought to our service here. If Mr and Mrs H wish to change adjusters, this should be referred to LV to consider.

When monitoring is completed, LV will need to consider the findings and act accordingly. If the property is shown to be stable, I would expect LV to ensure whatever works are required are established and then carried out by suitably qualified professionals.

I understand Mr and Mrs H want as much confidence and assurance as possible – and I acknowledge my findings might not provide the level of certainty they were seeking. To be effective the repair must fully put right the damage. And to be lasting it must do so for a reasonable amount of time.

But what is reasonable is dependent on the work that is carried out. While something such as general redecoration works might be considered effective if they lasted for a few years, structural work would be expected to last a lot longer. If LV were to carry out repairs and further damage was to present itself, LV would need to consider this and establish whether the repairs had failed.

It isn't this service's role to act as a claims manager, so I won't be directing how LV should move forward with any works required or the specific individuals it should appoint. It will be for LV to decide this – however I would expect it to appoint appropriately qualified individuals to undertake any work required.

If new concerns arise and Mr and Mrs H are unhappy with LV's proposed actions, they may consider raising a further complaint – and may decide to bring a further complaint to our service if they are dissatisfied with LV's response.

### **Putting things right**

To put things right, I direct LV to:

- Carry out further monitoring at the property using a different supplier to establish whether the property is stable.
- Update the remedial repair schedule to address the observations made by R set out above.
- Reimburse Mr and Mrs H for the cost of R's report – If it requires it LV can ask for proof of the cost, such as an invoice or receipt.
- Simple interest of 8% should be applied on the above, from the date it was paid by Mr and Mrs H until the date LV makes payment to them.

### **My final decision**

My final decision is that I uphold Mr and Mrs H's complaint.

To put things right I direct Liverpool Victoria Insurance Company Limited to do as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs H to accept or reject my decision before 1 August 2024.

Michael Baronti  
**Ombudsman**