

The complaint

Mr C has complained that Ageas Insurance Limited has declined a claim he made under his household insurance policy.

What happened

The background to Mr C's claim is not in dispute. The roots of a large tree on his driveway have caused the paving slabs above the roots to lift and crack.

Ageas declined the claim – it said it wasn't covered by his policy. Mr C referred his complaint here. The investigator didn't recommend that it be upheld.

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.

Firstly I should say I was very sorry to read about Mr C's ill health. I do understand how difficult it is to cope with his illness and treatment at the same time as dealing with the issue he has complained about. And I can see that he has approached several agencies/bodies but has not received any assistance. Here though I am only considering Ageas.

In this decision I've focused on what I find is the key issue here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I've reviewed the file and considered the representations Mr C has made with care. Having done so I agree with the conclusion reached by the investigator. I'll explain why.

The relevant regulatory rules say that insurers must handle claims promptly and fairly and they must not unreasonably reject a claim, so I've looked carefully to see if Ageas has treated Mr C fairly here.

Ageas sent a loss adjuster to report on the damage. The loss adjuster wrote '*Damage to the driveway appears consistent with tree root damage which, as a slowly operating cause is not a single one-off event. Furthermore, we find no other external cause and this matter falls outside any applicable peril or accidental damage*'.

Mr C's insurance policy doesn't cover things that have occurred gradually over a period of time – gradually operating causes. There is a general policy wear and tear exclusion, which includes 'any other gradual operating cause' This is a common exclusion in policies of this type. And I don't think it would be unreasonable to say that Mr C might reasonably have been aware of the damage the tree roots were causing to the paving in his drive.

Mr C's policy sets out the insured events that it covers, and related policy exclusions. Accidental damage to buildings (which include paved paths and drives) is stated in Mr C's schedule as being covered. Accidental damage is defined as: *unexpected and unintended loss or damage caused by a single and one off event resulting from a sudden and external*

means. Even if I were to conclude that the damage met the definition of 'accidental' – the policy excludes damaged caused by: *wear and tear, wet or dry rot, damp, gradual deterioration, atmospheric or climatic conditions or corrosion*. So I don't find it was unfair to decline cover under this section of the policy.

I've carefully considered the remaining terms of Mr C's policy to see if his claim could be covered under any other section. For example, as well as accidental damage referred to above Mr C is covered for *subsidence or heave of the site on which the buildings stand*. But loss or damage to paved paths and drives is excluded unless the main building or its domestic outbuildings are damaged by the same cause at the same time. There is nothing to show this is the case here. So unfortunately, I don't find here is an insured event that would assist Mr C at this time.

I do appreciate that Mr C was only claiming for the section of the drive damaged by the tree roots, and not the entire drive. But nevertheless, this is not covered by his policy for the reasons given above. For the avoidance of doubt there is absolutely no suggestion that Mr C is a 'fraudster'. Simply he made a claim that is not covered by his policy. In all the circumstances I don't find that Ageas treated Mr C unfairly, unreasonably, or contrary to his policy terms by declining this claim.

In answer to Mr C's recent question, the fact that this claim has not succeeded doesn't mean that his policy wouldn't respond to a valid future claim.

I'm sorry that my decision doesn't bring Mr C the news that he was hoping for.

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 Mr C to accept or reject my decision before 23 October 2024.

Lindsey Woloski
Ombudsman