

## The complaint

Mr O and Mrs W have complained that U K Insurance Limited (UKI) unfairly declined a claim under their home insurance policy on the basis of fraud.

## What happened

Mr O and Mrs W applied for a mortgage. They were turned down for it because of a fraud marker, which they found was the result of an insurance claim UKI had previously declined. So, Mr O and Mrs W contacted UKI to complain. They said they weren't aware of the fraud marker and that at the time of the claim Mr O had a medical condition which meant he was unable to recall what he had discussed. When UKI replied to the complaint, it said it had reviewed the claim and remained of the view that the fraud condition had been breached.

So, Mr O and Mrs W complained to this service. Our investigator didn't uphold the complaint. He said it was reasonable for UKI to decline that claim, including after a review of the medical evidence and other additional information. He didn't think UKI needed to remove the marker.

As Mr O and Mrs W didn't agree, the complaint was referred to me.

I issued my provisional decision on 28 January 2022. In my provisional decision, I explained the reasons why I was planning to uphold the complaint. I said:

*I've looked at the medical evidence and also listened to some phone calls between UKI and Mr O. I'm aware that at the time of those phone calls, Mr O didn't know he had a medical issue and it was only later diagnosed, although the medical evidence suggests it would have affected Mr O for some time before diagnosis. I don't need to explain the details of the medical issues here, but it seemed to affect Mr O's memory.*

*When UKI spoke to Mr O about the claim, it wasn't aware of his medical issues. UKI asked Mr O to recall various pieces of information. From what I heard, Mr O seemed to understand the questions and was able to recall information, sometimes about things that had happened several months earlier, in order to answer the questions. So, based on what I've looked at as part of this case, I don't think there was anything to indicate Mr O had a medical condition or that he was unable to fully engage in the conversation, even if he is now unable to recall what was discussed.*

*However, I should note that I asked Mr O a number of questions about what happened. Mrs W replied on his behalf and said Mr O wasn't able to provide any of the requested information as he wasn't able to recall the situations and conversations I asked about. Given the medical evidence, I have accepted these responses and that this has put limits on the information that I might normally expect to be provided with as part of a complaint.*

*But my reasons for currently intending to uphold this complaint aren't based on the medical evidence. They are based on what UKI relied on to decline the claim and to make a fraud finding. UKI has confirmed that its findings were based on the metadata of some photos. The date and times embedded in the metadata of those photos indicated they were taken after*

*the claim had been made. As they were photos taken of a laptop Mr O said had been stolen, UKI concluded the claim was fraudulent. However, I'm not currently persuaded UKI had enough evidence to make a fraud finding.*

*In my view, the metadata of two photos was a very narrow basis to conclude that fraud has been committed. I think it would have been a reasonable basis to investigate the claim further to see if there were other issues that might indicate fraud. But I don't currently think the photos were enough in themselves to show there was fraud.*

*UKI has put a lot of weight on the photo metadata. I can understand why it thought this needed further investigation. I've seen the metadata for the laptop photos and that the date and time of the photos was after the claim was made and therefore after Mr O said the laptop had been stolen. When UKI raised this with Mr O, it told Mr O the date the metadata indicated the photos had been taken. Mr O said that was the date on which he had uploaded the photos. UKI said this wouldn't affect the metadata. Mr O also looked at the photo metadata on his phone and said it showed a different date, several months earlier. Mr O explained he had taken the photos as he had needed to provide them as part of a previous repair to the laptop. I'm aware that UKI asked Mr O to resend the photos. Mr O then sent screenshots of the photos.*

*Metadata isn't a fixed or unchangeable source of information. It can be deliberately changed by the user or if the settings on a phone are wrong this will mean the metadata is incorrect. I also provided UKI with evidence of discussions on the internet, which I found by carrying out a simple search, where people were surprised to find that the metadata, and in particular the date and time, changed on their photos when they later tried to download them from the cloud. So, I think there is also evidence to suggest metadata can change, including without the user being aware of this.*

*I'm not saying that any of these scenarios necessarily happened in this case. However, I currently think it shows that UKI relying on a single issue, and for that single issue to be photo metadata, meant that it didn't do enough to show it was more likely than not that fraud had taken place. As a result, I currently intend to uphold this complaint and say that UKI should remove the fraud marker.*

*I've also thought about compensation. Mr O and Mrs W have said they had a mortgage declined because of the fraud marker. I think this will have caused Mr O and Mrs W considerable distress. So, I currently intend to require UKI to pay £300 compensation as a result of this.*

*I asked both parties to send me any more information or evidence they wanted me to look at by 25 February 2022. Both parties replied before that date.*

*Mr O and Mrs W agree with my decision.*

*UKI sent two responses. The first disagreed with the decision and provided reasons, which I've summarised below:*

- *UKI considered that what I had said was based on assumptions and not supported by the evidence it had on file. All the evidence showed the photos were taken following the loss. There had never been any indication that the photos were taken from the cloud.*
- *UKI provided a timeline of the online claim process.*
- *UKI said that looking at the photos, it was satisfied they were not images someone would have taken without having a reason to do so. It was clear they had been purposefully taken to show the laptop and it could see no reason for this other than to support the claim.*

- If the images were taken from the cloud, there would have been little information available and it wouldn't have been possible to view the GPS location and the image the device was taken on.
- It therefore stood to reason that the photos were taken for the sole purpose of making this claim and that this was supported by the evidence, which showed the images were taken after the loss. UKI said the burden of proof had been satisfied and that there was sufficient evidence to prove fraud on the balance of probabilities.
- UKI also said Mr O and Mrs W at no point attempted to alleviate the concerns raised or to respond to the final decision letter. The only reason they now did so was because of issues with applying for a mortgage.
- It was also concerned that this decision would breach the Proceeds of Crime Act and set a concerning precedent whereby it would pay out fraudulent claims in future.
- UKI also provided a list of other cases looked at by this service which it said were related.

UKI sent a second reply querying why I hadn't said it should reconsider the claim, but that it should pay redress. It asked whether I therefore accepted it had made the right decision on the claim. If this was the case, it asked why I said it should pay redress and remove references from databases.

### **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've decided to maintain my decision to uphold this complaint and for the reasons given in my provisional decision. As part of that, I've carefully considered the further points raised by UKI to see if this affects my decision, including looking at the other cases it listed. Having looked at the other cases, I'm not persuaded that I should change my decision. The circumstances of those cases were different and this case has been decided based on what happened in relation to this claim.

UKI has also said it thought the photos wouldn't be taken without a reason and that they were taken for the sole purpose of making this claim. However, as I explained in my provisional decision, Mr O told UKI why he had taken the photos. He said he had taken them several months previously because he needed to arrange for his laptop to be repaired. So, this would potentially satisfy UKI's concern about why someone would have reason to take these photos and also undermines its assertion that the sole purpose would be to support this claim. This is evidence that UKI itself gathered and provided to this service.

In my view, this also supports my concerns that UKI put so much weight on a single issue in this case, that being the metadata. I explained my concerns about the metadata itself in my provisional decision. I've also looked at what UKI has said about GPS data, but it doesn't affect my view or my reasoning. I remain of the view that UKI didn't do enough to show it was more likely than not that fraud had taken place.

In terms of how I said the complaint should be resolved, Mr O and Mrs W said they were no longer interested in the claim and the priority was the fraud finding. This is why I didn't say I intended to require UKI to reconsider the claim. This doesn't mean that I agree with UKI's decision on the claim. UKI's actions also had an impact on Mr O and Mrs W, including on getting a mortgage, so I remain of the view that it's reasonable for UKI to pay compensation. UKI should also remove references from relevant databases.

### **Putting things right**

UKI should remove any references to fraud from databases and pay Mr O and Mrs W £300 compensation.

### **My final decision**

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint. I currently require U K Insurance Limited to:

- Remove any references to fraud from internal and external databases.
- Pay Mr O and Mrs W £300 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O and Mrs W to accept or reject my decision before 24 March 2022.

Louise O'Sullivan  
**Ombudsman**